CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
HARRY FREITAS, DIRECTOR

ADDENDUM TO THE BRANDENBURG MIXED USE PROJECT/NORTH SAN PEDRO HOUSING SITES EIR (SCH # 2003012046) AND THE SAN JOSE DOWNTOWN STRATEGY 2000 FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2003042127)

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to the Brandenburg Mixed Use Project/North San Pedro Housing Sites EIR (Brandenburg EIR) and the San Jose Downtown Strategy 2000 Final Environmental Impact Report (Strategy 2000 FEIR) because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

H14-037 – North San Pedro Tower 3 Residential Project. Site Development Permit to allow a high-rise, 18-story development with up to 313 residential units, approximately 2,000 square feet of commercial space and three levels of above-grade parking on an approximately 1.52 gross acre site. **Location:** Undeveloped property located at the northwest corner of Old West Julian Street and Terraine Street, bounded by Bassett Street to the north and Highway 87 to the west (APNs 259-24-008, -020, and -039).

Council District: 3.

The environmental impacts of this project were addressed by two Final Environmental Impact Reports: "The Brandenburg Mixed Use Project/North San Pedro Housing Sites EIR," adopted by City Council Resolution No. 72170 on June 15, 2004; and "The Downtown Strategy 2000 Final Environmental Impact Report," adopted by City Council Resolution No. 72767 on June 21, 2005. The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that "A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred." Circumstances which would warrant a subsequent EIR include substantial changes in the project or new information of substantial importance which would require major revisions of the previous EIR due to the occurrence of new significant impacts and/or a substantial increase in the severity of previously identified significant effects.

The following impacts were reviewed and found to be adequately considered by the Brandenburg EIR and the Strategy 2000 FEIR:

- ☒ Traffic and Circulation
- ☒ Cultural Resources
- ☒ Urban Services
- ☒ Aesthetics
- ☒ Energy
- ☒ Water Quality
- ☒ Soils and Geology
- ☒ Hazardous Materials
- ☒ Biotic Resources
- ☒ Airport Considerations
- ☐ Greenhouse Gas Emissions
- ☒ Utilities
- ☒ Noise
- ☒ Land Use
- ☒ Air Quality
- ☒ Microclimate
- ☒ Construction Period Impacts
- ☒ Facilities and Services

ANALYSIS

The amount of residential and commercial development proposed for the site was included and analyzed in the Brandenburg EIR and the Strategy 2000 FEIR, at a program level.

The Brandenburg EIR analyzed the program-level environmental impacts of the development of up to 60,000 square feet of commercial space and 1,500 residential units on 14 acres north of W. St. James Street, including the project site. This EIR assumed the development of 268 units on the project site. The current project proposes 313 units, 45 units more than the development assumed on site in the Brandenburg EIR. However, other sites covered by the Brandenburg EIR have approved Site Development permits (H12-020, H14-002, H14-003, and H14-004) with 152 less residential units than the development capacity analyzed in the EIR (which assumed 638 units on these sites but only 486 units were approved in the PD Permits). Therefore, the proposed project is still within the total residential development capacity analyzed in the Brandenburg EIR. Any development beyond the 1,500 residential units analyzed in the Brandenburg EIR will be covered under the Downtown Strategy 2000 FEIR.

The Strategy 2000 FEIR was a broad range, program-level environmental document, which analyzed the following level of development in the Greater Downtown Core Area during the planning horizon of Strategy 2000:

- 8,000,000 to 10,000,000 square feet of office space;
- 8,000 to 10,000 residential dwelling units;
- 900,000 to 1,200,000 square feet of retail space; and
- 2,000 to 2,500 guest rooms of hotel space, in four to five hotel projects.

The project, as proposed, would construct a residential high-rise building with 313 residential units and about 2,000 square feet of ground floor commercial/retail space. The type and intensity of development proposed is consistent with the anticipated development in the Brandenburg EIR and the Strategy 2000 FEIR.

The attached Initial Study evaluates the project-specific environmental impacts that were not addressed in the two previously certified EIRs, including Greenhouse Gas Emission (GHG) impacts. A project-level GHG evaluation found that GHG emissions from the project, at 2.8 metric tons of CO_2e per person per year, will be below the Bay Area Air Quality Management District's service population threshold of 4.6 metric tons of CO_2e per person per year.

The Initial Study concluded that the proposed project would not result in any new impacts not previously disclosed in the Brandenburg EIR or the Strategy 2000 FEIR. The project will not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. For these reasons, a supplemental or subsequent EIR is not required and an addendum to the Brandenburg EIR and the Strategy 2000 FEIR has been prepared for the proposed project.

This addendum will not be circulated for public review, but will be attached to both the Brandenburg EIR and the Strategy 2000 FEIR, pursuant to CEQA Guidelines §15164(c). The attached Initial Study (Attachment 1) provides background on the project description, specific project impacts, and the relationship between previous mitigation measures and the revised project.

David Keyon
Environmental Project Manager

7/9/15
Date

Harry Freitas, Director
Planning, Building and Code Enforcement

Deputy

Attachment: 1) Draft Initial Study, dated July 2015.

Addendum

North San Pedro Tower 3 Residential Project

File No. H14-037

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

July 2015

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APPENDICES

SECTION 1.0 INTRODUCTION AND PURPOSE

This Initial Study (IS) has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 *et seq*), and the regulations and policies of the City of San José. The purpose of this IS is to inform decision makers and the general public of the environmental impacts that might reasonably be anticipated to result from development of the proposed project.

In 2003, the City of San Jose approved the Brandenburg Mixed Use Project/North San Pedro Housing Sites project. The 11.11-acre Brandenburg site was comprised of 14 parcels in the downtown core of San Jose. The Brandenburg site was generally bounded by the Union Pacific Rail Line to the north, Market Street to the east, St. James Street to the south, and State Route 87 (SR 87) to the west. The intent of the project was to allow for the development of approximately 60,000 square feet of commercial space and 1,500 residential units.

The Brandenburg Mixed Use Project/North San Pedro Housing Sites FEIR (Brandenburg FEIR) was a program-level environmental document which analyzed the overall development proposed for the 14 parcels. The FEIR did, however, provide project level information where possible. The proposed project site is part of the larger Brandenburg site.

In 2005, the City of San José approved the San José Downtown Strategy 2000 plan, which is an update of the *San José Downtown Strategy Plan* (adopted in 1992) and is a long-range program for the redevelopment and preservation of the central core of San José. The plan includes the following development:

- 8,000,000 to 10,000,000 square feet of office,
- 900,000 to 1,200,000 square feet of retail space,
- 8,000 to 10,000 residential units, and
- 2,000 to 2,500 hotel guest rooms.

The Downtown Strategy 2000 FEIR was a broad range, program-level environmental document, but did develop project level information whenever possible such as when a specific site was identified for a specific size and type of development. All subsequent development that has occurred as part of the Downtown Strategy 2000 has had project specific supplemental environmental review. The proposed project site was originally identified as part of a larger redevelopment site (Site L-4) in the Downtown Strategy 2000 for up to 60,000 square feet of commercial space and 1,500 residential units consistent with the approved Brandenburg Mixed Use Project/North San Pedro Housing Sites project.

In 2011, the City of San José approved the San José 2040 General Plan, which is a long-range program for the future growth of the City. The San José 2040 General Plan FEIR was a broad range analysis of planned growth and did not analyze specific development projects. The intent was for the San José 2040 General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier.

This IS has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy 2000 and the 2040 General Plan.

Tiering From Previous EIRs

In accordance with CEQA, this IS will tier from both the San José 2040 General Plan FEIR, the Downtown Strategy 2000 FEIR, and the Brandenburg FEIR. The CEQA Guidelines contain the following information on tiering an environmental document:

> **§15152 – Tiering.** (a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later projects.
>
> (b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequences of analysis is from an EIR prepared for a general plan, policy or program to an EIR or negative declaration for another plan, policy, or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

This IS and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3rd floor, during normal business hours.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

North San Pedro Tower 3 Residential Project

2.2 PROJECT LOCATION

The 1.52-acre project site is comprised of three parcels located at the northwest corner of Old West Julian Street and Terraine Street in the downtown core of the City of San José (see Figures 2.0-1 and 2.0-2).

2.3 LEAD AGENCY CONTACT

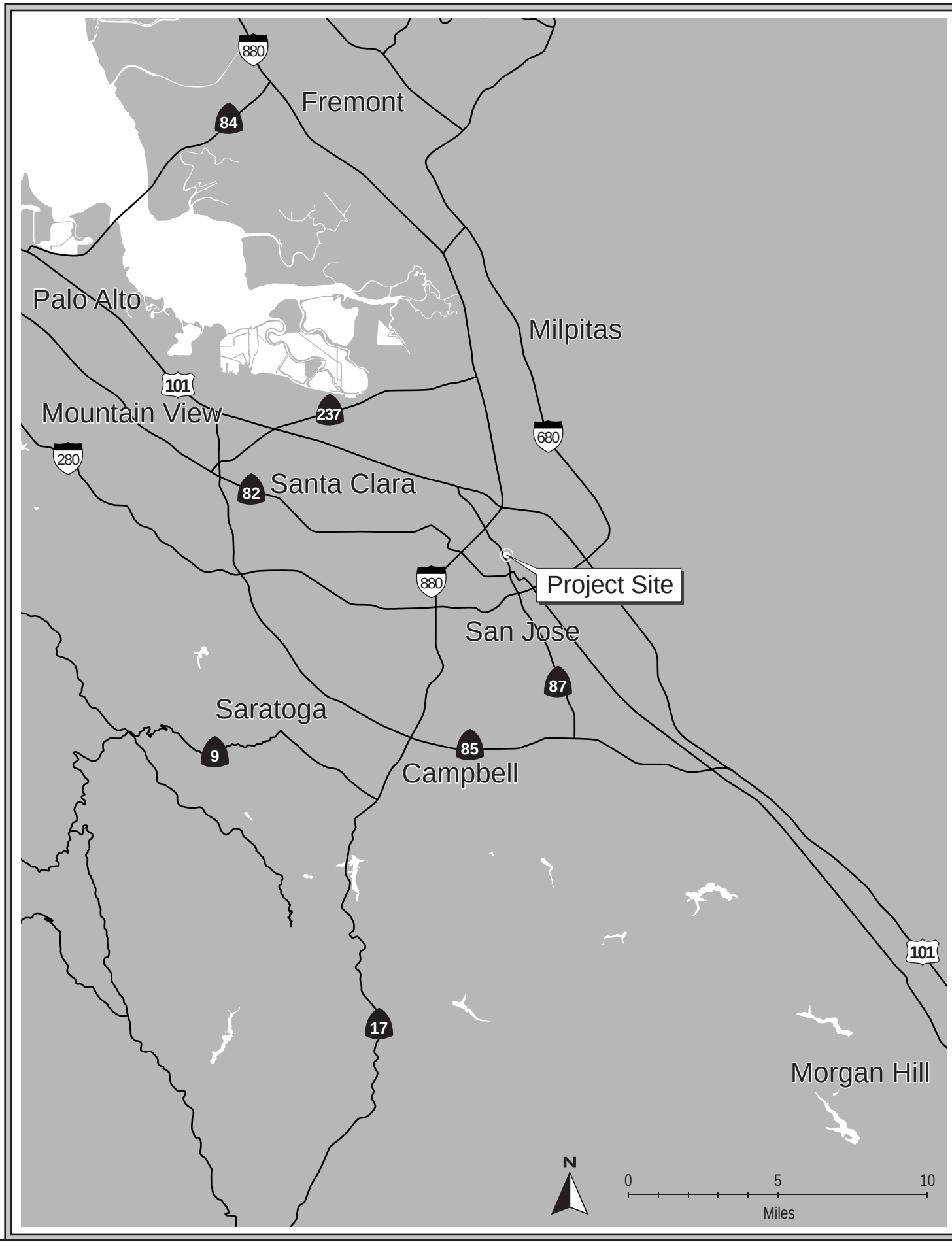
City of San José
Department of Planning, Building and Code Enforcement
Contact: David Keyon, Planner II
200 East Santa Clara Street
San José, CA 95113
(408) 535-7898

2.4 ASSESSOR'S PARCEL NUMBER

259-24-008
259-24-020
259-24-039

2.5 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation: *Downtown*
Zoning: *DC – Downtown Core*



REGIONAL MAP FIGURE 2.0-1

VICINITY MAP

FIGURE 2.0-2

SECTION 3.0 PROJECT DESCRIPTION

The 1.52-acre (66,262 square foot) project site is comprised of three parcels (APNs 259-24-008, -020, -039) located at the northwest corner of Old West Julian Street and Terraine Street in the downtown core of the City of San José. The site is currently designated *Downtown* under the City of San José's adopted General Plan and zoned *DC – Downtown Core.*

The project site was part of the approved Brandenburg Mixed Use Project/North San Pedro Housing Sites project. The 11.11-acre Brandenburg site was comprised of 14 parcels. The Brandenburg site was generally bounded by the Union Pacific Rail Line to the north, Market Street to the east, St. James Street to the south, and State Route 87 (SR 87) to the west. The intent of that project was to allow for the development of approximately 60,000 square feet of commercial space and 1,500 residential units.

The currently proposed project site was also identified as part of a larger redevelopment site (Site L-4) in the Downtown Strategy 2000 for up to 60,000 square feet of commercial space and 1,500 residential units, consistent with the Brandenburg Mixed Use Project/North San Pedro Housing Sites project.

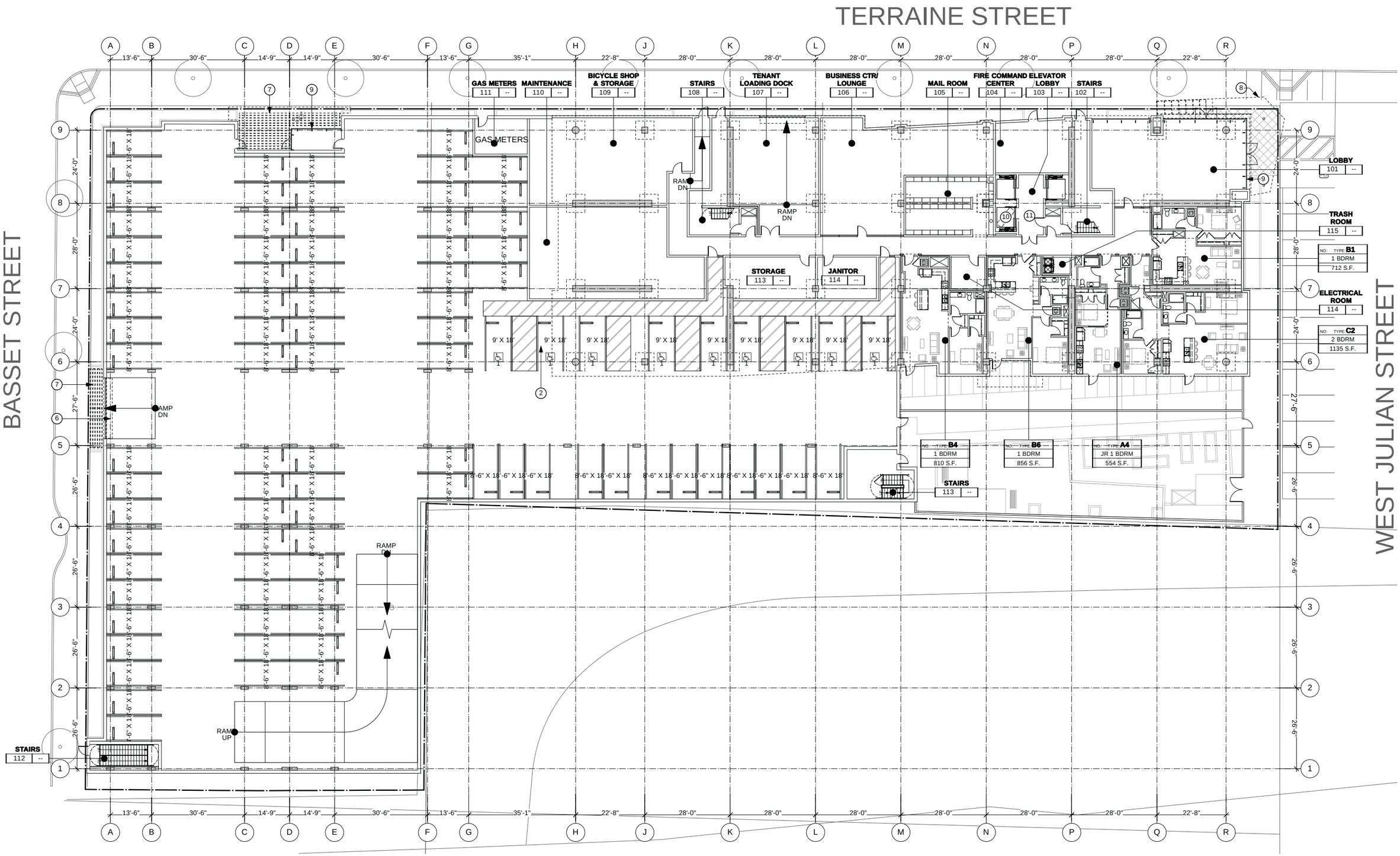
The L-shaped parcel has three street frontages, Bassett Street to the north, Terraine Street to the east, and Old West Julian Street to the south. The entire site is currently vacant and fenced. The project site is accessible by two driveways on Bassett Street. Additional gated entries are located on Terraine and Old West Julian Streets, but there are no designated driveways as these roadways do not have curbs or sidewalks along the project site frontages. Highway 87 is located along the western edge of the project site and is elevated in this area.

The Brandenburg project and the Downtown Strategy 2000 envisioned up to 268 residential units and 402 parking spaces (1.5 parking spaces per unit) on-site. As proposed, the project would demolish the existing hardscape, remove all trees on the property, and construct an 18-story, 51,439 square foot residential tower with 313 for-rent residential units and 2,795 square feet of ground floor office space[1]. (see Figure 3.0-1) While the currently proposed project is larger than anticipated for this particular parcel, it is within the parameters of the overall development approved for the Brandenburg project and Site L-4 of the Downtown Strategy 2000.

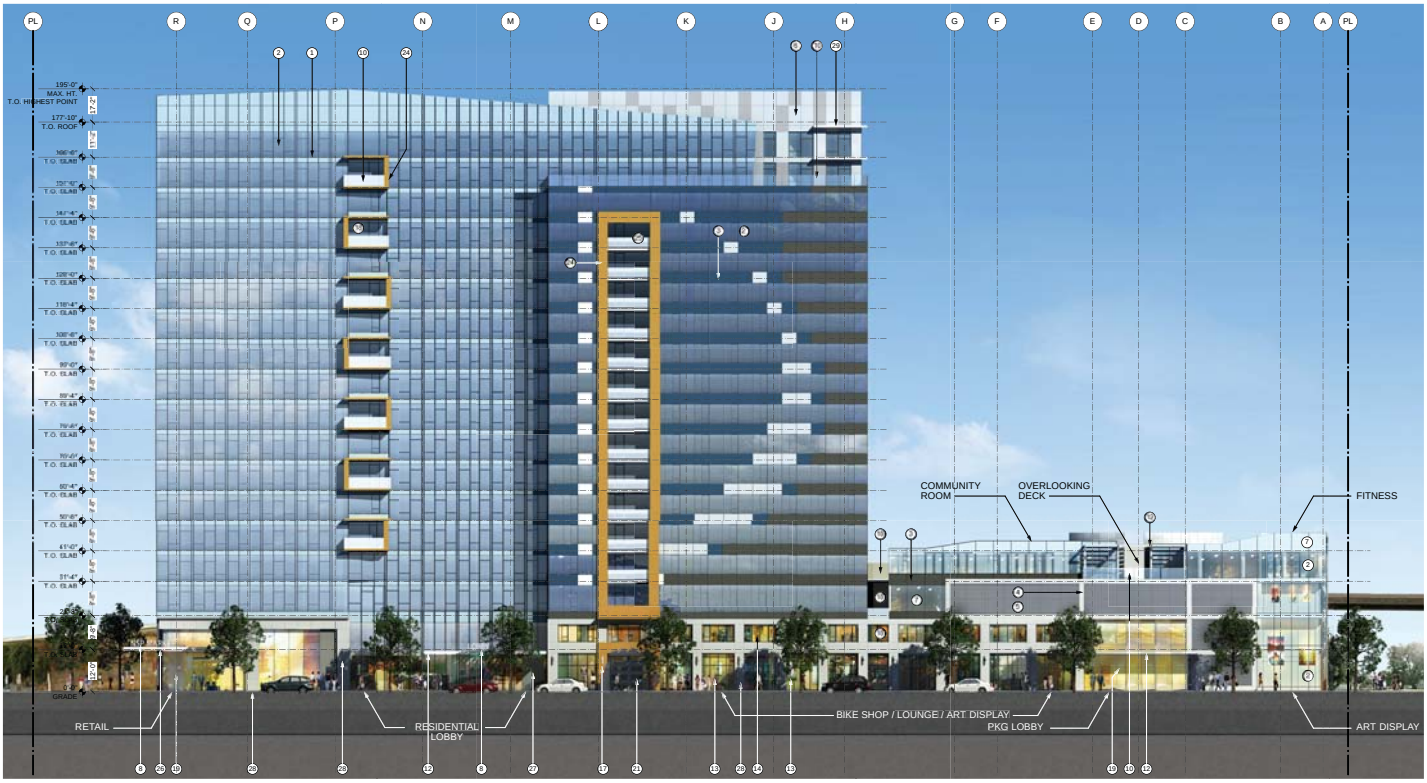
The tower would be located at the southeast corner of the site with the parking structure directly behind on the northern portion of the site. The maximum height of the building will be 178 feet to the top of the tower roof and 192 feet to the top of the mechanical equipment screens (see Figures 3.0-2 and 3.0-3).

Parking would be provided on-site within a parking garage. The garage would have one level of below-grade parking and three levels of above-grade parking with a total of 382 parking spaces. Of

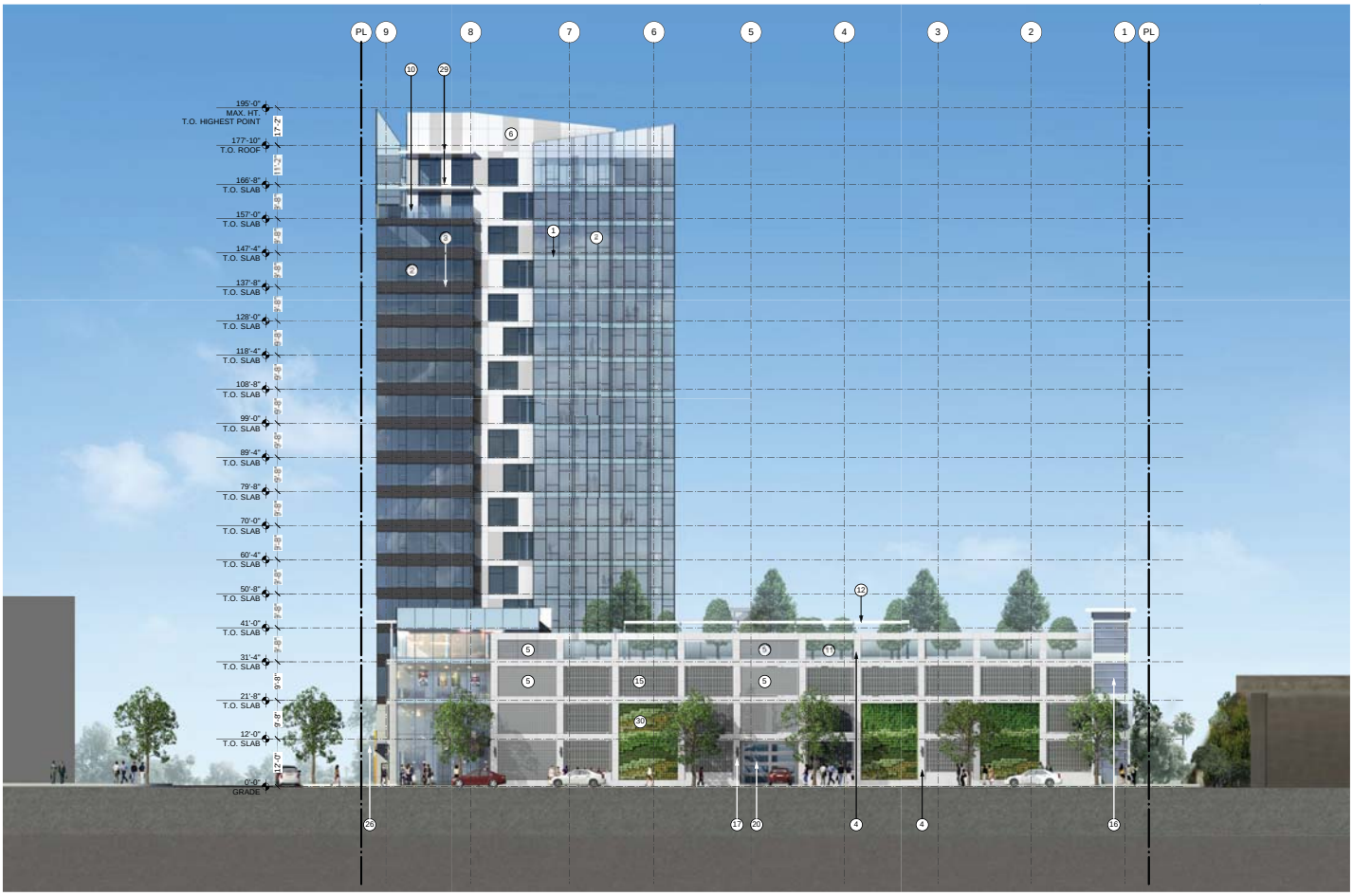
[1] The proposed office space would be for the leasing office and other building operations.



SITE PLAN (GROUND FLOOR) FIGURE 3.0-1



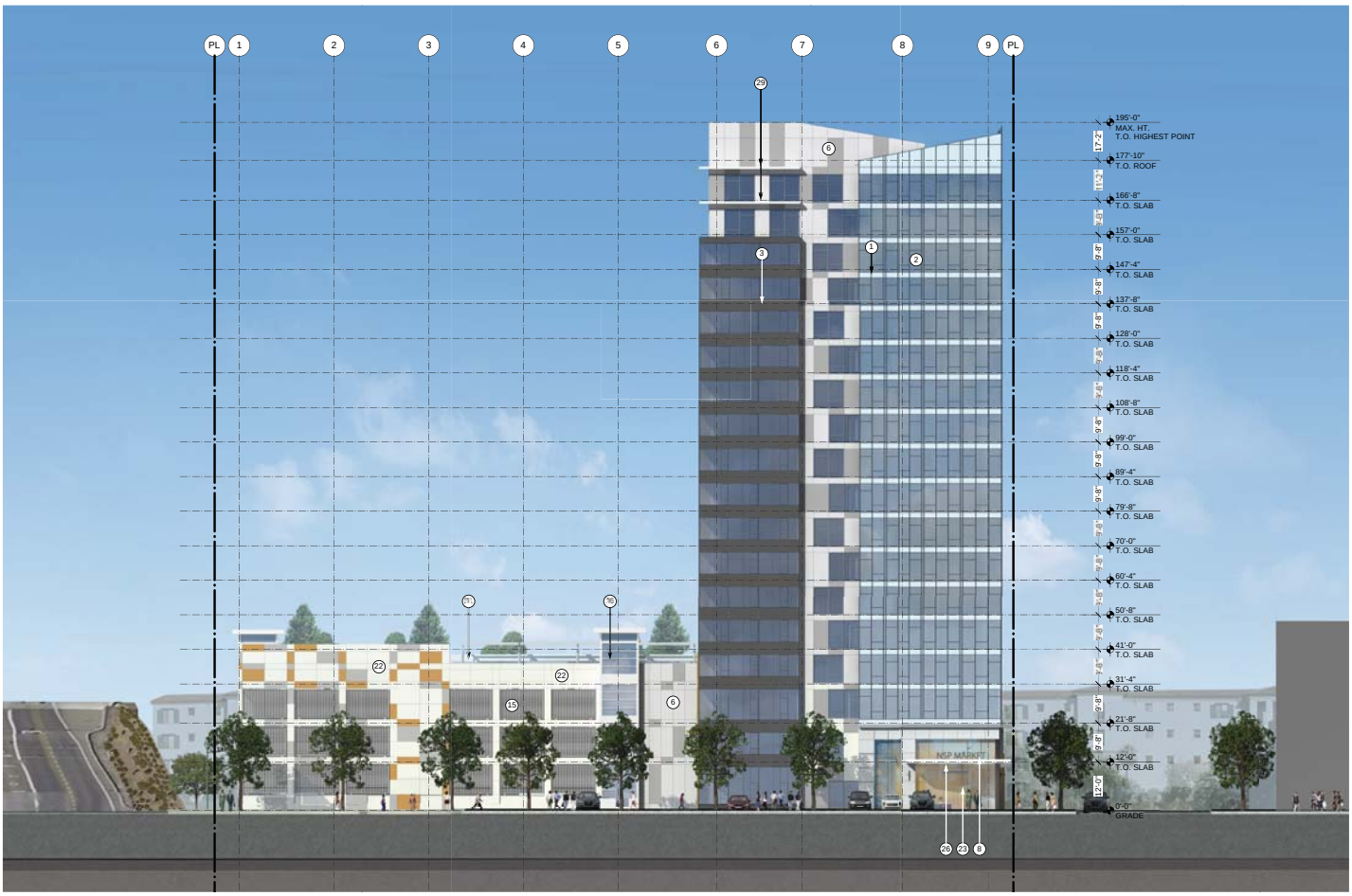
Terraine Street View



Basset Street View

BUILDING ELEVATIONS FIGURE 3.0-2

Caltrans/Freeway View



West Julian Street View

BUILDING ELEVATIONS FIGURE 3.0-3

the 382 spaces, 41 would be tandem and are not included in the overall parking ratio. Excluding the tandem spaces, the project would provide 341 parking spaces (1.09 parking spaces per unit). The parking structure will reach a maximum height of 41 feet. Access to the garage would be from Bassett Street on the north side of the project site. No access to the garage will be provided from Terraine Street or Old West Julian Street. The project also proposes ground level secure bicycle parking which would be accessed from Terraine Street.

Recreational space on-site would include a pool deck and common open space area on top of the parking structure. The pool and an adjacent bocce ball court would be on the western half of the garage roof and passive open space would be on the eastern half. A barbeque and seating area is proposed along the northern edge. A dog run and community garden are proposed on the ground level, along the western edge of the tower. (see Figure 3.0-4)

The proposed building and parking structure would have no setbacks from the sidewalks along the street frontages.

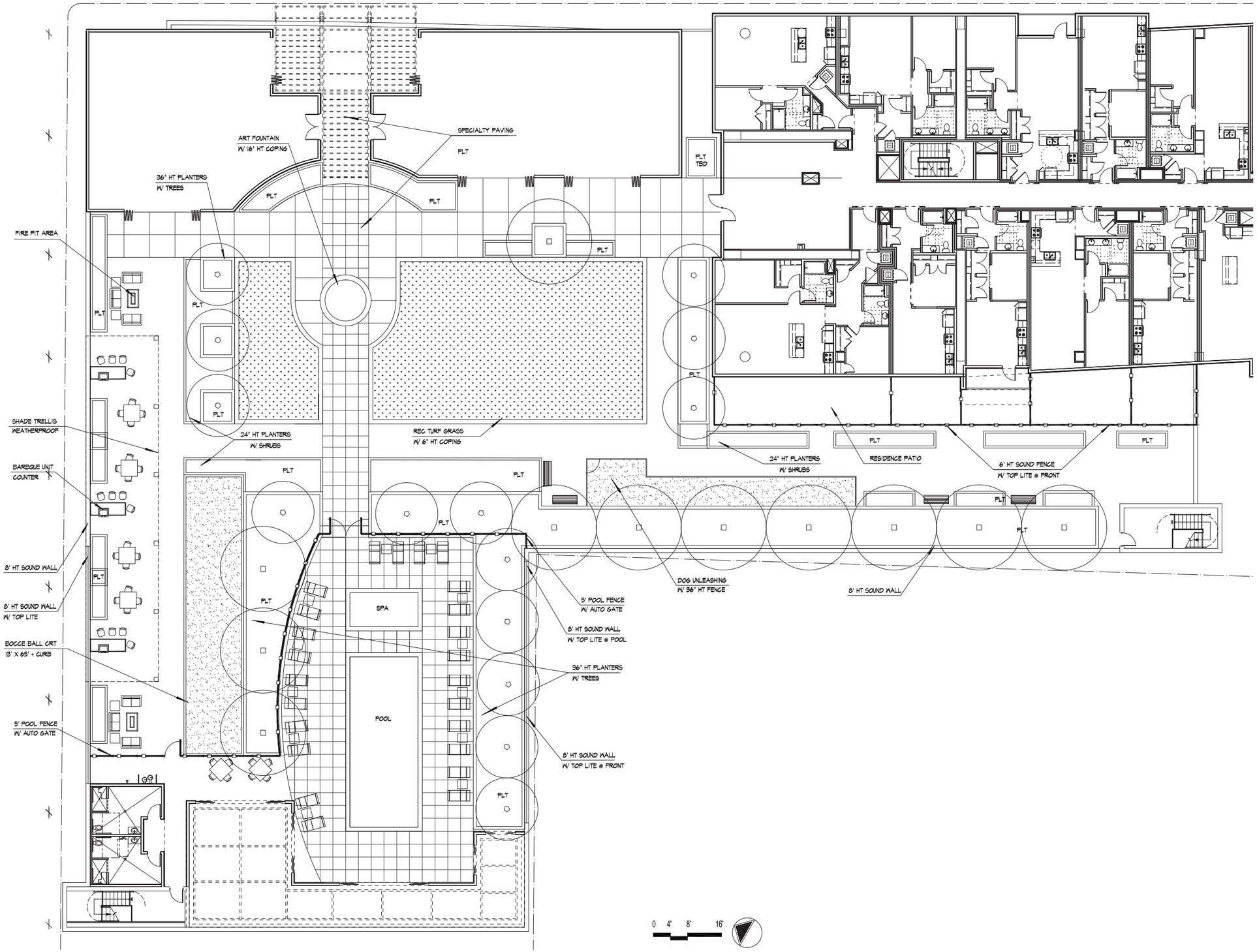
Existing Land Use Designation and Zoning

As noted above, the project site is designated *Downtown* in the *San Jose 2040 General Plan* and is zoned *DC – Downtown Core,* consistent with the General Plan.

The General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, development of up to a floor area ratio (FAR) of 15.0 and residential densities up to 350 dwelling units per acre (DU/AC). Under this designation, residential projects should generally incorporate ground floor commercial uses. Please refer to Section 4.10 for a discussion of the projects consistency with the General Plan designation.

Permitted land uses under the DC zoning are consistent with the *Downtown* General Plan land use designation. Based on the DC zoning, development shall only be subject to the height limitations necessary for the safe operation of Mineta San Jose International Airport. There are no minimum setback requirements.

Zoning Code Section 20.70.110 states that new structures exceeding one hundred fifty feet and an FAR of 6:1 which are constructed within one hundred feet of a city landmark or contributing structure in a designated landmark district shall be reviewed by the historic landmarks commission prior to consideration or approval of a development permit for new construction. The comments of the historic landmarks commission shall be included in any development permit staff report subsequently presented to the executive director of the redevelopment agency, director of planning, planning commission or city council. Please refer to Section 4.10 for a discussion of the projects consistency with the zoning designation.



LANDSCAPE PLAN

FIGURE 3.0-4

SECTION 4.0 ENVIRONMENTAL SETTING & CHECKLIST

This section describes the existing environmental conditions on and near the subject site, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the CEQA Guidelines, was used to identify environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified in Section 5.0. Mitigation measures are identified for all significant project impacts. "Mitigation Measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 Project Site

The project site is currently vacant and covered primarily in ruderal (weedy) vegetation and trees. A small paved area, partially covered with piles of debris, is located along the northern boundary of the site. A six-foot chain-link fence surrounds the property. (Photos 1 and 2)

4.1.1.2 Surrounding Land Uses

Development in the project area is a mix of industrial, office, and residential land uses. Building heights vary by land use from one to 16 stories. The project site is bound by Bassett Street to the north, Terraine Street to the east, Old West Julian Street to the south, and Highway 87 to the west. In the vicinity of the project site, all three roadways are two lane roads with limited access. Terraine Street spans two city blocks from Devine Street to Bassett Street. Bassett Street runs from North Second Street to its terminus just west of Highway 87. Old West Julian Street runs approximately three city blocks from Market Street to its terminus at Highway 87, immediately south of the project site. Along the street frontages of the project site, only Bassett Street has sidewalks. Terraine Street and Old West Julian Street have dirt and gravel between the property boundary and the roadway edge. Highway 87 is elevated next to the project site with a large earthen embankment adjacent to most of the project site's western boundary.

North of Bassett Street is a small vacant parcel used for car storage, the Union Pacific Railroad (UPRR) rail line, and a four-story multi-family apartment complex. The vacant parcel is covered in ruderal vegetation and has several inoperable cars parked on-site. (Photo 2) The parcel is surrounded by a six-foot chain-link fence. The apartment complex is a cluster of five buildings and two parking structures around a center common open space area. The buildings are white stucco with tiles roofs. The southern facades of the buildings that face the project site have minimal decorative features. (Photo 3)

PHOTO 1: View of the project site, looking west from Terraine Street.

PHOTO 2: View of the project site, looking south from the northern site boundary (along Bassett Street).

PHOTOS 1 AND 2

PHOTO 3: View of the vacant parcel (with car storage) north of the project site, looking north from Bassett Street.

PHOTO 4: View of the nearby apartment complex, looking north from the terminus of Terraine Street.

PHOTOS 3 AND 4

PHOTO 5: View of the nearby industrial building, looking northeast from Bassett Street.

PHOTO 6: View of the industrial building to the east of the project site (currently being demolished), looking north from Old West Julian Street.

PHOTOS 5 AND 6

PHOTO 7: View of the industrial buildings to the east of the project site (currently being demolished), looking south from Bassett Street.

PHOTO 8: View of the nearby office building, looking south from Terraine Street.

PHOTOS 7 AND 8

PHOTO 9: View of the nearby residential tower, looking southeast from Terraine Street.

East of Terraine Street are three one- and two-story industrial buildings. The buildings are concrete with flat roofs and no decorative features. The property at the northeast corner of Terraine and Bassett Streets is fairly well maintained (no debris or graffiti) but has no landscaping. (Photo 4) The two remaining properties are in poor condition with debris and graffiti and no landscaping. (Photos 5 and 6) The two buildings on these properties are currently being demolished. There are also two vacant lots in similar condition to the project site with chain link fencing and overgrown weedy vegetation.

South of Old West Julian Street is a large surface parking lot that serves a six-story office building. The office building is primarily glass panes (with a brown tint) with prominent white stucco columns and roofline. (Photo 7) The parking lot has a six-foot cement block wall along Old West Julian Street. Debris and graffiti is present along the northern wall of the parking lot, facing the project site. Aside from that, the building and parking lot are clean and well maintained with trim landscaping. A 16-story residential tower is located east of the office building. The tower, constructed in 2004, is a modern structure with minimal architectural features and is very well maintained. (Photo 8)

4.1.1.3 Applicable Aesthetics Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid black walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Policy CD-1.18: Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.

Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.

4.1.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	1-5
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	1-5
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	1-5
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, the proposed project would result in less than significant aesthetics impacts, as described below.

4.1.2.1 Aesthetic Impacts

Scenic Vistas and Other Scenic Resources

Most of the City is relatively flat and prominent viewpoints are limited. The project area, in particular, has minimal to no scenic views due to the existing built environment and no designated scenic resources. While the project site is currently vacant, adjacent nearby buildings range from one to 16 stories in height. The construction of an 18-story building on the project site would not significantly diminish scenic views in the project area or damage any designed scenic resources, because there are no views or scenic resources in the project area. **[Same Impact as Approved Project (No Impact)]**

Visual Character

The proposed project site is located in an area that is not highly visible, except from Highway 87. Any new construction on this site will be visible from the highway and the surrounding properties. As outlined above, the project site is in a highly urbanized area and is surrounded with a multitude of architectural styles and building heights.

The General Plan FEIR concluded that while new development and redevelopment under the General Plan would alter the appearance of the City, implementation of adopted policies and existing regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character or quality of the City. Future development on-site will comply with the adopted plans, policies, and regulations as outlined in the General Plan FEIR. In addition, the project will be required to comply with all applicable urban design concepts adopted as part of the Downtown Strategy 2000. As a result, the proposed project will have a less than significant impact on the visual character and quality of the City. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Light and Glare

As stated above, development on the project site will be highly visible from Highway 87 and surrounding properties. The General Plan FEIR concluded that while new development and redevelopment under the General Plan could be new sources of nighttime light and daytime glare, implementation of adopted plans, and conformance with adopted policies and regulations would avoid substantial light and glare impacts. The proposed project will comply with the aforementioned General Plan policies and City Council Lighting Policy 4-2. In addition, the project will be required to comply with all applicable urban design concepts adopted as part of the Downtown Strategy 2000. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3 Conclusion

Implementation of the proposed project would have the same less than significant aesthetic impact as previously identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR. [**Same Impact as Approved Project (Less Than Significant Impact)]**

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The project site is located in San José in an area designated for urban uses. The Santa Clara County Important Farmland 2010 Map designates the project site as *Urban and Built-Up Land* which is defined as land occupied by structures with a building density of at least one unit to a 1.5 acre parcel, or approximately six structures to a ten-acre parcel. Common examples include residential, industrial, institutional facilities, cemeteries, sanitary landfills, etc. The project site is surrounded by urban and built-up land. There is no designated farmland adjacent to the site.[2] The site is not subject to a Williamson Act contract.

There is no forest land uses located on or adjacent to the project site.

4.2.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	1-6
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1-6
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	1-5
4. Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1-5
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1-5

[2] California Department of Conservation. S*anta Clara County Important Farmland.* 2011. <ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/scl10.pdf> Accessed October 29, 2012.

Similar to the site development evaluated in the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would not result in impacts to agricultural and forest resources, as described below.

4.2.2.1 Impacts from the Proposed Project

Implementation of the project will allow construction of a 18-story residential building on a site that is currently undeveloped. The project will not convert *Prime Farmland, Unique Farmland*, or *Farmland of Statewide Importance* to a non-agricultural use. The project will not conflict with existing zoning for agricultural use or a Williamson Act contract. The proposed development will not interfere with agricultural operations or facilitate unplanned conversion of farmland elsewhere in San José to non-agricultural uses. The project site is not a forest resource, nor are there forest lands in the vicinity. For these reasons, the project will not result in a significant impact to agricultural or forest resources. **[Same Impact as Approved Project (No Impact)]**

4.2.3 Conclusion

Implementation of the proposed project would have no impacts on agricultural or forest resources, consistent with the findings of the Downtown Strategy 2000 FEIR and the General Plan FEIR. [**Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The following discussion is based, in part, on an air quality analysis prepared by *Illingworth & Rodkin* in March 2015. The report can be found in Appendix A.

4.3.1 Setting

4.3.1.1 Background

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determinants of transport and dilution are wind, atmospheric stability, Terraine and for photochemical pollutants, sunshine.

The project site is within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the regional government agency that monitors and regulates air pollution within the air basin.

4.3.1.2 Topography and Climate

The South Bay has significant Terraine features that affect air quality. The Santa Cruz Mountains and Diablo Range on either side of the South Bay restrict horizontal dilution, and this alignment of the Terraine also channels winds from the north to south, carrying pollution from the northern San Francisco Bay Peninsula toward San José.

The proximity of San José to both the Pacific Ocean and San Francisco Bay has a moderating influence on the climate. Meteorological factors make air pollution potential in the Santa Clara Valley quite high. Northwest winds and northerly winds are most common in the project area, reflecting the orientation of the Bay and the San Francisco Peninsula.

4.3.1.3 Regional and Local Criteria Pollutants

Major criteria pollutants, listed in "criteria" documents by the U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and suspended particulate matter (PM). These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms.

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level ozone or State standards for PM_{10} and $PM_{2.5}$. The area is considered attainment or unclassified for all other pollutants.

4.3.1.4 Local Community Risks/Toxic Air Contaminants and Fine Particulate Matter

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively

low concentrations in ambient air. However, they can result in adverse chronic health effects if exposure to low concentrations occurs for long periods.

Fine Particulate Matter ($PM_{2.5}$) is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to $PM_{2.5}$ can cause a wide range of health effects.

Common stationary source types of TACs and $PM_{2.5}$ include gasoline stations, dry cleaners, and diesel backup generators which are subject to permit requirements. The other, often more significant, common source is motor vehicles on freeways and roads.

4.3.1.5 Sensitive Receptors

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, schools, playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medicinal clinics. Existing sensitive receptors near the project site include residential development north of Bassett Street.

4.3.1.6 Applicable Air Quality Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	1-5,7,8
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒	1-5,7,8
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☐	☒	1-5,7,8
4. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐	1-5,7,8
5. Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	1-5

BAAQMD CEQA Guidelines[3] provide the following definitions of a significant air quality impact:

- A cumulatively considerable net increase of any criteria pollutant or a precursor to that pollutant for which the project region is non-attainment under an applicable national or State ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for O_3 precursors). This is judged by comparing direct and indirect project emissions to the BAAQMD significance thresholds of 54 pounds per day for ROG, NOx, or $PM_{2.5}$, and 82 pounds per day for PM_{10}. Annual significance thresholds are 10 tons per year for ROG, NOx, or $PM_{2.5}$, and 15 tons per year for PM_{10}.
- A substantial contribution to an existing or projected violation of an ambient air quality standard would result if the project would cause an exceedance of an ambient air quality standard.
- Expose sensitive receptors or the general public to substantial pollutant concentrations. This is evaluated by assessing the health risk in terms of cancer risk or hazards posed by the placement of new sources of air pollutant emissions near existing sensitive receptors or placement of new sensitive receptors near existing sources.
- Create or expose a substantial number of people to objectionable odors. This is evaluated based on the potential for the project to generate odors that could affect nearby sensitive receptors in a manner that would cause frequent complaints.

[3] Bay Area Air Quality Management District. California Environmental Quality Act, Air Quality Guidelines. 2011. http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx

- Conflict with or obstruct implementation of the applicable air quality plan. This is evaluated by comparing the project effects on projections used in the latest Bay Area CAP and evaluating the plan features that would implement CAP Transportation Control Measures.
- If project emissions of toxic air contaminants or $PM_{2.5}$ exceed any of the thresholds of significance listed below:
    - An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
    - An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.
- If an existing single-source that has emissions of toxic air contaminants or PM2.5 exceeds any of the thresholds of significance listed below:
    - An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
    - An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.
- If the aggregate of sources within 1,000 feet that have emissions of toxic air contaminants or PM2.5 exceeds any of the thresholds of significance listed below:
    - An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
    - An incremental increase of more than 0.8 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

In 2009, BAAQMD published Proposed Thresholds of Significance. The CEQA Guidelines prepared by BAAQMD in 2011 used these significance criteria to evaluate the impacts caused by projects. BAAQMD's adoption of the 2011 thresholds was called into question by an a trial court order issued March 5, 2012, in California Building Industry Association v. BAAQMD (Alameda Superior Court Case No. RGI0548693) that determined the adoption of the thresholds was a project under CEQA but did not address the substantive validity, merits or scientific basis of the thresholds. The California Court of Appeal for the Fifth District reversed the trial court decision and the Court of Appeal's decision was appealed to the California Supreme Court, which granted limited review and before whom the matter is pending. BAAQMD is not recommending the use of the 2011 thresholds pending a final judgment.

The issues in the California Building Industry Association v. BAAQMD lawsuit are not relevant to the scientific basis of BAAQMD's analysis of what levels of pollutants should be deemed significant. The City has determined that the scientific information in BAAQMD's proposed thresholds of significance analysis provides substantial evidence to support the 2011 thresholds and, therefore, has determined the thresholds and methodologies from BAAQMD's May 2011 CEQA Air Quality Guidelines are appropriate for use in this analysis to determine whether there would be any project operational impacts in terms of criteria pollutants, toxic air contaminants and odors. These CEQA Air Quality thresholds were used to evaluate air quality impacts from the project.

4.3.2.1 Bay Area 2010 Clean Air Plan Consistency

The most recent clean air plan is the *Bay Area 2010 Clean Air Plan* that was adopted by BAAQMD in September 2010. This plan addresses air quality impacts with respect to obtaining ambient air quality standards for non-attainment pollutants (i.e., O_3, PM_{10} and $PM_{2.5}$), reducing exposure of sensitive receptors to toxic air contaminants (TACs), and reducing greenhouse gas (GHG) emissions such that the region can meet AB 32 goals of reducing emissions to 1990 levels by 2020. The consistency of the proposed project with this regional plan is primarily a question of the consistency with the population/employment assumptions utilized in developing the 2010 CAP, which were based on ABAG Projections. The proposed project is consistent with the development assumptions in the General Plan. Therefore, the project is consistent with the current growth projections in the 2010 CAP.

The 2010 CAP includes about 55 control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. The control measures are divided into five categories that include:

- Measures to reduce stationary and area sources;
- Mobile source measures;
- Transportation control measures;
- Land use and local impact measures; and
- Energy and climate measures

The consistency of the project is evaluated with respect to each set of applicable control measures in Table 4.3-1 below.

TABLE 4.3-1
Bay Area 2010 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	The project proposes secure bicycle parking spaces for residents. The project, therefore, is consistent with this control measure.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The project site has been designed to be pedestrian oriented, including adding sidewalks where there are currently none, and enhancing the pedestrian experience. The project is consistent with this control measure.

TABLE 4.3-1 Bay Area 2010 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The proposed residential development is located within the downtown core and is in walking distance of existing bus stops and light rail. The project places residents within walking distance of jobs, restaurants, retail, and services. Due to nearby available services and existing transportation options, the project is consistent with this control measure.
Parking Pricing and Management Strategies	Promote policies to implement market-rate pricing of parking facilities, reduce parking requirements for new development projects, parking "cash-out", unbundling of parking in residential and commercial leases, shared parking at mixed-use facilities, etc.	The project will reduce the overall parking from the 1.5 spaces per unit proposed for the Brandenburg project to 1.09 spaces per unit. Therefore, the project is consistent with this control measure.
Energy and Climate Measures		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The proposed project would be required to comply with the City's Green Building Ordinance which will increase building efficiency over standard construction. The project proposes to achieve minimum LEED Silver certification. Therefore, the project is consistent with this control measure.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	The project would be required to comply with the City's Green Building Ordinance which will increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
Tree-Planting	Promote planting of low-VOC-emitting shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.	As designed, the project will plant new trees on-site and, if necessary, plant new trees off-site as well to conform to the City's Tree Ordinance. The new trees will help with the absorption of air pollutants but will have no measurable effect on the urban heat island effect on-site. The proposed project, therefore, is not wholly consistent with this control measure.

The project includes transportation and energy control measures and is generally consistent with the population projections in the Clean Air Plan. The project is also consistent with the City's General Plan. The project by itself, therefore, would not result in a significant impact related to consistency with the Bay Area 2010 Clean Air Plan. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.2.2 Impacts to Regional and Local Air Quality

The Brandenburg FEIR concluded that the original 14 parcel project would result in a significant unavoidable criteria pollutants impact. Mitigation measures, based on the BAAQMD Guidelines, were identified, including providing neighborhood-serving retail and services, transit and shuttle services, bicycle lanes and improved pedestrian facilities, secure bicycle parking, and other transportation demand management measures. Even with these measures, the Brandenburg FEIR concluded that the overall project would have a significant and unavoidable criteria pollutant impact.

Since completion of the original project, BAAQMD has revised their criteria pollutants thresholds and established screening sizes for various land uses. For residential high-rise development, BAAQMD determined that projects with fewer than 510 dwelling units would have a less than significant impact on criteria pollutants. The proposed project is below the residential high-rise screening size for operational criteria pollutants. Therefore, the project, by itself, would not exceed the emissions thresholds for criteria pollutants and would have a less than significant impact on regional air quality.

While the project would place housing in proximity to retail, services, jobs, and transit, and provide secure bicycle parking, the project would contribute to the overall cumulative criteria pollutant impact identified in the Brandenburg FEIR and the Downtown Strategy FEIR. The proposed project is part of the planned growth in the downtown area and will not result in any new impacts or impacts of greater severity than were already disclosed in the Brandenburg FEIR and the Downtown Strategy 2000 FEIR. **[Same Impact as Approved Project (Significant Impact)]**

A determination of the project's potential to result in significant local air pollutant emissions (i.e. carbon monoxide) is based on its consistency with the local Congestion Management Program and its potential to add sufficient vehicle trips to one or more intersections that would cause the intersection(s) to exceed 44,000 vehicles per hour. The project would not contribute vehicle traffic exceeding screening thresholds for carbon monoxide impacts at the intersections affected by the project. The project, therefore, would have a less than significant local air quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.2.3 Community Risk Impacts

BAAQMD recommends that projects be evaluated for community risk when they are located within 1,000 feet of stationary permitted sources of TACs, and/or within 1,000 feet of freeways and high traffic volume roadways (10,000 average daily trips [ADT] or more). Traffic on high volume roadways is a source of TAC emissions that may adversely affect sensitive receptors in close proximity the roadway.

Mobile Source Emissions – Local Roadways

The project site is located adjacent to Bassett Street, Terraine Street, and Old West Julian Street, all of which have an ADT of well below 10,000. Julian Street, St. James Street, and Coleman Avenue are high volume roadways and are within 1,000 feet of the project site. Table 4.3-2 shows the health risk to future site occupants due to automobile emissions from local roadways.

TABLE 4.3-2
Local Roadway Community Risk Levels

Roadway	Distance from Project	ADT	Cancer Risk (per million)	$PM_{2.5}$ ($\mu g/m^3$)	Acute/Chronic Hazard (HI)
Julian Street	300 feet	20,000	1.4	0.06	<0.03
St. James Street	600 feet	10,000	0.7	0.02	<0.03
Coleman Avenue	500 feet	30,000	1.4	0.05	<0.03
BAAQMD Thresholds			*10.0*	*0.3*	*1.0*

As shown in the table, the TAC emissions from the local high traffic volumes roadways near the project site would have a less than significant impact on future site occupants. **(New Less Than Significant Impact)**

Mobile Source Emissions – Highway 87

The project site is located adjacent to Highway 87, which has an annual ADT of 108,000. It is estimated that by the year 2020, Highway 87 would have an annual ADT of 115,560. Using the average diesel particulate matter (DPM) and total organic gases (TOG) concentrations for the year 2020, the individual cancer risk was computed. The cancer risk is based on a 70 year average exposure.

TABLE 4.3-3
Highway 87 Community Risk Levels

Source	Cancer Risk (per million)[4]	$PM_{2.5}$ ($\mu g/m^3$)	Acute/Chronic Hazard (HI)
Highway 87	6.2	0.22	<0.1
BAAQMD Thresholds	*10.0*	*0.3*	*1.0*

As shown in the table, the TAC emissions from Highway 87 project site would have a less than significant impact on future site occupants. **(New Less Than Significant Impact)**

Mobile Source Emissions – Union Pacific Rail Line

The project site is located within 200 feet of a Union Pacific Railroad (UPRR) line which his used for freight service and generates TAC and $PM_{2.5}$ emissions from diesel locomotives. Four freight trains pass the project site per day. As with the roadway exposure, the cancer risk is based on a 70 year average exposure.

[4] The cancer risk is for the western portion of the project site, nearest the highway. Other locations on-site would have a lower cancer risk.

TABLE 4.3-4 UPRR Rail Line Community Risk Levels			
Source	**Cancer Risk (per million)[5]**	**$PM_{2.5}$ ($\mu g/m^3$)**	**Acute/Chronic Hazard (HI)**
UPRR Rail Line	1.8	0.006	<0.1
BAAQMD Thresholds	*10.0*	*0.3*	*1.0*

As shown in the table, the TAC emissions from the rail line would have a less than significant impact on future site occupants. **(New Less Than Significant Impact)**

Stationary Source Emissions

The BAAQMD Stationary Source Screening Analysis Tool identified two operational stationary sources within 1,000 feet of the project site. One of the two sources does not emit TACs or $PM_{2.5}$. The other source (Plant #17788 – City Heights Apartments) does generate TAC emissions that exceed the single source threshold for cancer risk.

TABLE 4.3-5 Stationary Sources and Associated TAC Levels			
Source	**Cancer Risk (per million)[6]**	**$PM_{2.5}$ ($\mu g/m^3$)**	**Acute/Chronic Hazard (HI)**
Plant 17788	0.85	0.00	0.00
BAAQMD Thresholds	*10.0*	*0.3*	*1.0*

As shown in the table, the TAC emissions from the identified stationary source would have a less than significant impact on future site occupants. **(New Less Than Significant Impact)**

4.3.2.4 Construction Impacts

Construction activities would temporarily affect local air quality. Construction activities such as demolition, earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. The proposed project exceeds the screening criteria for construction ozone precursor emissions.

The General Plan FEIR concluded that construction emission impacts could be reduced to a less than significant level with the implementation of General Plan policies and existing regulations. In addition, these emissions would be temporary (full project construction is estimated to be 24 months). Therefore, the proposed project would have a less than significant criteria pollutant emissions impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[5] The cancer risk is for the northeast corner of the residential area, nearest the rail line. Other locations on-site would have a lower cancer risk.

[6] The cancer risk is for the southeast corner of the residential area, nearest the City Heights apartment building. Other locations on-site would have a lower cancer risk.

Construction Dust Emissions

As identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying soils are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of particulate matter downwind of construction activity.

Consistent with City policies, the project shall implement the following measures during all phases of construction on the project site as a condition of project approval to reduce dustfall and locally-elevated particulate matter emissions:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

4. All vehicle speeds on unpaved roads shall be limited to 15 mph.

5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible and feasible. Building pads shall be laid as soon as possible and feasible, as well, after grading unless seeding or soil binders are used.

6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the identified dust control measures required for the project, the project would have a less than significant construction related air quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction TAC Emissions

Construction of the project would result in the generation of TACs, including diesel PM, from trucks and off-road equipment exhaust emissions. Construction activity on the project site will vary over time and the emissions of TACs would also be temporary given the relatively short timeframe diesel equipment will be used within close proximity (approximately 200 feet) to sensitive receptors. The current models and methodologies available to conduct health risk assessments do not correlate to the temporary and variable nature of construction activities. Accurate estimates of health risk due to construction activity, therefore, are difficult to quantify. BAAQMD does not currently provide quantification tools and acknowledges that the implementation of the best management practices identified in the discussion of construction dust emissions above would also reduce diesel PM exhaust emissions.

Sensitive receptors are located north of the project site, across the railroad tracks. Assuming construction would occur over 24 months from 2016 to 2018, the maximum child cancer risk would be 4.1 in one million and the maximum adult cancer risk would be 0.2 in one million. The maximum $PM_{2.5}$ concentration would be 0.10 $\mu g/m^3$ and the HI would be less than 0.01. Therefore, construction TAC emissions from the project site would be less than significant. **[New Less Than Significant Impact (Less Than Significant Impact)]**

4.3.2.5 Odor Impacts

The project site is currently a vacant lot that does not generate any odors. The proposed residential development would not result in a new odor generator in the project area. The Brandenburg FEIR concluded that there were no odor sources in the project area that could impact future site occupants of the project site. Land uses in the immediate area of the project site have not changed substantially since the Brandenburg FEIR was prepared, except for the construction of housing. Housing is not considered a major odor source and, therefore, future residents of the project site would not be exposed to significant odors. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3 Conclusion

Construction and operation of the proposed project by itself would have a less than significant impact on local and regional air quality. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The proposed project will have a less than significant TAC impact on future site residents. **[New Less Than Significant Impact (Less Than Significant Impact)]**

4.4 BIOLOGICAL RESOURCES

4.4.1 Setting

4.4.1 Regulatory Setting

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are identified as rare, threatened or endangered under the State and/or Federal Endangered Species Act, and the natural communities of habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodland) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA is consistent with and complimentary to various Federal, State, and local laws and regulation that are designed to protect these resources. These regulations often mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts required as permit conditions, prior to the commencement of development activities.

4.4.1.1 Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (HCP) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). It is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County.

The project site is located within the HCP area which is defined as the area where all covered activities would occur, impacts evaluated, and conservation activities would be implemented. Covered activities are public and private projects or ongoing activities that will receive incidental take authorization by the ESA and Natural Community Conservation Plan (NCCP) permits for impacts to threatened and endangered species and associated habitats. Covered activities in the HCP fall into seven general categories.

- Urban development.
- In-stream capital projects.
- In-stream operations and maintenance.
- Rural capital projects outside streams.
- Rural development.
- Rural operation and maintenance of public infrastructure outside streams.
- Conservation strategy implementation (i.e., activities within the lands managed, enhanced, restored, and monitored to conserve the natural resources targeted by this Plan).

The project site has a designation of Urban Development according to the HCP Land Use

Category and is subject to the applicable conditions, fees, and avoidance and minimization measures, in order to be considered a covered activity and eligible for take authorization under the Plan. This Plan utilizes a variety of private and public development-based fees to fund mitigation that will offset losses of land cover types, covered species habitat, and other biological values. These one-time fees pay for the full cost of mitigating project effects on the covered species and natural communities.

4.4.1.2 City of San José Tree Ordinance

The City of San José Tree Removal Controls (San José City Code Section 13.31.010 to 13.32.100) protect all trees having a trunk that measures 56 inches or more in circumference (17.8 inches in diameter) at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San José for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees.

4.4.2 Existing Setting

4.4.2.1 Overview of Habitat Found on the Project Site

Most of the project site is unpaved and is covered in overgrown ruderal vegetation. There are some trees, mostly tree of heaven and Mexican fan palms (see Section 4.4.2.3), around the perimeter of the site. The northwest corner of the site is partially paved.

The site is located in a developed urbanized area in downtown San José. Due to historical development of the project site, there is no native vegetation on-site.

4.4.2.2 Special Status Animal Species

Special status species are those plants and animals listed under the State and Federal Endangered Species Acts (including candidate species); plants listed on the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as Species of Special Concern by the California Department of Fish and Game. Most special status animal species occurring in the Bay Area use habitats that are not present on the project site. Salt marsh, freshwater marsh, and serpentine grassland habitats are not present within or immediately adjacent to the site. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area.

4.4.2.3 Trees

Trees (both native and non-native) are valuable to the human environment for the benefits they supply in resisting global climate change (i.e., carbon dioxide absorption), protection from weather, because they provide nesting and foraging habitat for raptors and other migratory birds, and because they are a visual enhancement.

Trees located on the project site are a mixture of non-native species in varying sizes and levels of health. Within the boundaries of the project site, there are a total of 31 trees. Of the 31 trees surveyed there are 27 tree of heaven, three Mexican Fan Palm, and one coast live oak. The coast live oak is considered a native species. The project proposes to remove all of the existing trees on-site.

The following table lists all trees identified on the project site during the tree survey. The location of the trees is shown on Figure 4.4-1.

TABLE 4.4-1
Tree Survey

Tree No.	Scientific Name	Common Name	Size*
1	*Ailanthus altissima*	Tree of Heaven	20
2	*Ailanthus altissima*	Tree of Heaven	35
3	*Ailanthus altissima*	Tree of Heaven	11
4	*Qurecus agrifolia*	Coast Live Oak	18
5	*Washingtonia robusta*	Mexican Fan Palm	65
6	*Ailanthus altissima*	Tree of Heaven	25
7	*Ailanthus altissima*	Tree of Heaven	10
8	*Ailanthus altissima*	Tree of Heaven	15
9	*Ailanthus altissima*	Tree of Heaven	40
10	*Ailanthus altissima*	Tree of Heaven	25
11	*Ailanthus altissima*	Tree of Heaven	30
12	*Ailanthus altissima*	Tree of Heaven	11
13	*Ailanthus altissima*	Tree of Heaven	30
14	*Ailanthus altissima*	Tree of Heaven	25
15	*Ailanthus altissima*	Tree of Heaven	25
16	*Ailanthus altissima*	Tree of Heaven	15
17	*Ailanthus altissima*	Tree of Heaven	30
18	*Ailanthus altissima*	Tree of Heaven	60
19	*Ailanthus altissima*	Tree of Heaven	65
20	*Washingtonia robusta*	Mexican Fan Palm	10
21	*Ailanthus altissima*	Tree of Heaven	22
22	*Ailanthus altissima*	Tree of Heaven	33
23	*Ailanthus altissima*	Tree of Heaven	15
24	*Ailanthus altissima*	Tree of Heaven	22
25	*Ailanthus altissima*	Tree of Heaven	25
26	*Ailanthus altissima*	Tree of Heaven	25
27	*Ailanthus altissima*	Tree of Heaven	15
28	*Ailanthus altissima*	Tree of Heaven	10
29	*Ailanthus altissima*	Tree of Heaven	22
30	*Ailanthus altissima*	Tree of Heaven	25
31	*Washingtonia robusta*	Mexican Fan Palm	70

*Circumference in inches was estimated based on professional experience since access to the site was limited.
Note: Ordinance sized trees are 56+ inches in circumference.

TREE LOCATION MAP

FIGURE 4.4-1

4.4.2.4 Applicable Biological Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policy applicable to all development projects in San José.

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

4.4.3 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	1-5
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	1-5
3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	1-5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☒	☐	☐	1-5
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	1-5
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant biological impacts, as described below.

4.4.3.1 Vegetation, Habitats, and Wildlife

The project site is not currently developed, aside from a small paved area at the northwest corner of the project site, but was historically developed. Vegetation on the project site consists solely of ruderal vegetation and remnant landscape trees. Because of the history of development on-site, no natural or sensitive habitats exist that would support endangered, threatened, or special status wildlife species.

Neither the Brandenburg FEIR nor the Downtown Strategy 2000 FEIR identified any sensitive habitats on the project site and concluded that development on-site would have a less than significant impact on endangered, threatened, or special status wildlife species or the habitats that support them.

The General Plan FEIR concluded that impacts to developed habitats resulting from proposed development under the General Plan will be less than significant because of their abundance within the region and State, and the relatively low value of these habitats for biological resources compared to more natural habitats. Vegetation and wildlife impacts that would occur on the project site due to temporary or permanent loss of existing decorative plants and ornamental trees as a result of development of the proposed project would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.4.3.2 Habitat Conservation Plan

The project site is within the HCP area. Private development in the plan area is subject to the HCP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in Section 2.3.2 *Urban Development* or in Section 2.3.7 *Rural Development;*[7] and
- In Figure 2-5 (of the HCP), the activity is located in an area identified as "Private Development is Covered," OR the activity is equal to or greater than 2 acres AND

    - The project is located in an area identified as "Rural Development Equal to or Greater than 2 Acres is Covered," or "Urban Development Equal to or Greater than 2 Acres is Covered" OR

    - The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The project will require discretionary approval by the City and is consistent with activity described in Section 2.3.2 of the HCP. Nevertheless, the project site is 1.52 acres in size (below the 2.0 acre threshold) and is not subject to the HCP. **[New Less Than Significant Impact (Less Than Significant Impact)]**

4.4.3.3 Raptor Impacts

There are currently 31 trees on and around the project site. While there is higher quality habitat within the riparian corridor of Guadalupe River, the trees on-site could provide nesting habitat and, because of the ruderal vegetation on-site, foraging habitat.

Nesting raptors are among the species protected under provisions of the Migratory Bird Treaty Act and California Department of Fish and Game (CDFG) Code Sections 3503, 3503.5, and 2800. As stated above, raptors (such as falcons, hawks, eagles, and owls) and other migratory birds may utilize the large trees on-site or adjacent to the site for foraging or nesting. Construction disturbance near raptor nests can result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFG. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

[7] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San Jose planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

The loss of mature trees on-site would result in nesting raptors having to relocate to another site. Dispersion of mature raptors or migratory birds outside the breeding season would not, by itself, be significant.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures will be implemented during construction to avoid abandonment of raptor and other protected migratory birds nests:

MM BIO 1-1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February through August.

MM BIO 1-2: If it is not possible to schedule demolition and construction between September and January, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

[New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant Impact With Mitigation)]

4.4.3.3 Trees

While the project site is within an urbanized area, there are trees on-site that are part of the urban forest. Within the City of San José, the urban forest as a whole is considered an important biological resource because most mature trees provide some nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. While the urban forest is not as favorable an environment for native wildlife as extensive tracts of native vegetation, trees in the urban forest are often the only or best habitat commonly or locally available within urban areas.

Development of the proposed project would result in the loss of 31 trees on-site, five of which are considered mature.[8] The Brandenburg FEIR identified the loss of mature trees as a significant impact.

As a condition of approval, and consistent with the mitigation measure in the Brandenburg FEIR, trees removed as a result of the project will be required to be replaced in accordance with all applicable laws, policies or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

TABLE 4.4-2
City of San José Standard Tree Replacement Ratios

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio
Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

In accordance with City policy, tree replacement will be implement as shown in Table 4-4.2. Four trees would be replaced at a 4:1 ratio and one will be replaced at a 2:1 ratio with minimum 24-inch box trees. The remaining 26 trees on-site are less than 12 inches in diameter and will be replaced at a 1:1 ratio with minimum 15-gallon container trees. The total number of trees required to be planted on-site would be 44.

The species of trees to be planted will be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. Due to the design of the project site, no trees will be planted on-site. The replacement trees will be planted within the vicinity of the project area or funds equivalent to $300 per replacement tree will be paid to Our City Forest for replanting elsewhere in the City. Off-site tree planting locations will be approved by the Director of Planning, Building and Code Enforcement.

The General Plan FEIR concluded that compliance with local laws, policies or guidelines, as proposed by the project, would reduce impacts to the urban forest to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[8] The City of San José defines a mature tree as any tree that measures 12 inches or greater in diameter at 24 inches above the ground surface.

Construction Impacts

Construction activities associated with development of the project would not damage any trees on adjacent parcels. **(No Impact)**

4.4.4 Conclusion

Conformance with City policies and the mitigation measures identified in the Brandenburg FEIR will result in a less than significant impact on trees and the City's urban forest, consistent with the findings of the Brandenburg FIER, the Downtown Strategy 2000 FEIR and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

With implementation of the proposed mitigation, the project would have a less than significant impact on biological resources. **[New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant Impact With Mitigation)]**

4.5 CULTURAL RESOURCES

4.5.1 Existing Setting

4.5.1.1 Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 1,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone lived in small villages referred to as tribelets. Each tribelet occupied a permanent primary habitation site and also had smaller resource procurement camps. The Ohlone, who were hunter/gatherers, traveled between their various village sites to take advantage of seasonal food resources (both plants and animals). During winter months, tribelets would merge to share food stores and engage in ceremonial activities.

Based on studies completed for the Brandenburg FEIR, the FEIR concluded that the project site has a moderate to high sensitivity for prehistoric archaeological deposits due to the site's proximity to known resources areas and the Guadalupe River.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. The Downtown Strategy 2000 FEIR notes that several Native American sites have been found in the area bounded by West Santa Clara Street, West Reed Street, South Market Street, and the Guadalupe River.

4.5.1.2 Historic Subsurface Resources

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally located north of the project site, near the old San José City Hall. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street was the center of the second pueblo.

Each colonist in the pueblo was assigned a house lot and an agricultural plot. The houses (constructed of adobe) were generally placed in a north/south alignment around what is now Market

Street. The outlying areas were utilized for crops. There is no specific data regarding the use of the project site prior to 1848. If the land was in use, it was likely farm land.

Post-Mission Period to Mid 20th Century

In 1848, a survey of the City was completed but did not include the project site. Based on the Brandenburg FEIR, the project site was utilized as farm land from at least 1848 until the San Francisco and San Jose rail line opened in 1864. A railroad depot was located between North San Pedro Street and Terraine Street. In 1876, the project site is documented as part of the 5,000-acre Thomas Fallon property.

The project site is within the immediate area that was developed around the railroad station. The 1884 Sanborn Map of the project area shows several businesses along North San Pedro Street between Bassett Street and West Julian Street, including livery stables, the Albert Lake Box Company, the Toftle Brothers Box and Nail House, and multiple fruit packing, drayage, and storage facilities. There were also a few residences in the immediate area.

In 1908, a company that produced food processing equipment and farm sprayers was located on West Julian Street and its buildings occupied most of the block between Terraine and Pleasant Streets (including the project site). This business, and another business on West Julian Street, were demolished during construction on SR 87.

Based on the known development within the project area beginning in the Mission Period, and the site's proximity to the Second Pueblo, the Brandenburg FEIR concluded that the project site has a high sensitivity for historic archaeological deposits.

4.5.1.3 Historic Structures – Regulatory Framework

Below is an overview of criteria used to assess the historic significance and eligibility of a building, structure, object, site or district for listing in the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), and the City of Santa Clara Historic Preservation and Resource Inventory.

National Criteria

The NRHP is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, State and National level. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context," and second the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. As listed under Section 8, "Statement of Significance," of the National Register of Historic Places Registration Form, these are:

A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
B. Property is associated with the lives of persons significant in our past.
C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
D. Property has yielded, or is likely to yield, information important to prehistory or history.

State of California Criteria

The California Office of Historic Preservation's Technical Assistance Series #6, *California Register and National Register: a Comparison*, outlines the differences between the federal and state processes. The context types to be used when establishing the significance of a property for listing on the California Register of Historical Resources are very similar, with emphasis on local and State significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

City of San José Criteria for Local Significance

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof.

The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature' as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;

2. Identification as, or association with, a distinctive, significant or important work or vestige:
   a. Of an architectural style, design or method of construction;
   b. Of a master architect, builder, artist or craftsman;

c. Of high artistic merit;
d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A). The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B). Although the definitions listed are the most important determinants in evaluating the historic value of San José resources, the City of San José also has a numerical tally system that must be used in identifying potential historic resources. The "Historic Evaluation Sheet" requires resources to be rated according to visual quality/design; history/association; environment/context; integrity; reversibility; interior quality and conditions; and NRHP/CRHR status. A points-based rating system is used to score each building according to the extent to which it meets the criteria listed above. The final tallies are divided into three categories:

- Candidate City Landmark (CCL)
- Structure of Merit (SM) and/or Contributing Structure (CS)
- Non-Significant (NS)/Non-Contributing Structure (NCS)

According to the City of San José's *Guide to Historic Reports,* a City Landmark is "a significant historic resource having the potential for landmark designation as defined in the Historic Preservation Ordinance. Preservation of this resource is essential." The preservation of Structures of Merit "should be a high priority" but these structures are not considered significant resources for the purposes of CEQA.

4.5.1.4 Structures on the Project Site

The project site is currently vacant with no buildings on-site.

4.5.1.5 Structures Adjacent or in Close Proximity to the Project Site

Three structures in proximity to the project site were evaluated as part of the Brandenburg FEIR: 1) 330 North Terraine Street, 2) 380 North Terraine Street, and 3) 361 North San Pedro Street. The analysis concluded that these buildings were not significant under Federal, State, or local criteria.

The project area, which includes buildings within one block of the project site, does not include any buildings that are currently listed in the City of San Jose's Historic Resources Inventory. The nearest historic resource is Pellier Park, located more than 450 feet south of the project site.

4.5.1.6 Applicable Cultural Resources Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to the proposed project.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building.[9] A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☐	☒	1-5
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☐	☒	1-5

[9] For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	1-5
4. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	1-5

In addition to the thresholds listed above, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory.

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant cultural resources impacts, as described below.

4.5.2.2 Impacts to Subsurface Cultural Resources

Prehistoric and Historic Resources

The *2040 General Plan Final EIR* concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on subsurface prehistoric and historic resources.

Policy ER-10.1 states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

While the project site is located within an area considered highly sensitive for prehistoric and historic resources, subsurface testing of nearby sites consistent with City policy and in accordance with Mitigation Measure CUL-3b of the Downtown Strategy 2000 FEIR failed to yield any evidence of prehistoric archaeological deposits. Nevertheless, the Brandenburg FEIR and the Downtown Strategy 2000 FEIR concluded that construction activates on the project would result in a significant impact to as yet unrecorded subsurface prehistoric artifacts. In particular, the need to excavate below the ground surface for the basement parking level could expose native soils that may contain archaeological resources.

Impact CUL – 1: Implementation of the proposed project could damage or destroy as yet unrecorded subsurface prehistoric archaeological resources.

Mitigation and Avoidance Measures

The following mitigation measures, consistent with the Brandenburg FEIR and Downtown Strategy 2000 FEIR, will be implemented during construction to avoid impacts to as yet unrecorded subsurface archaeological resources:

MM CUL-1.1: A qualified archaeologist, meeting the Professional Qualifications Standards of the Secretary of the Interior's Standards and Guidelines, shall monitor all ground disturbing activity within the project area. This monitoring shall continue until, in the archaeologist's judgment, a depth has been reached at which cultural resources are not likely to be encountered by project-related activities. If deposits of archaeological materials are encountered during project activities, all work within 50 feet of the discovery shall be redirected until the monitor has evaluated the finds and made recommendations regarding their disposition. If such cultural resources are found to be significant, in accordance with CEQA and the California Register, they should be avoided by project activities. If avoidance is not feasible, adverse effects to such resources shall be mitigated.

Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials.

Upon completion of archaeological monitoring, a report shall be prepared documenting the methods, results, and recommendations of the monitoring archaeologist.

MM CUL-1.2: If human remains are encountered during construction, work within 50 feet of the discovery should be redirected and the County Coroner notified immediately. At the same time, an archaeologist should be contacted to evaluate the situation. If he human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Native American Most Likely Descendent to inspect the site and provide recommendations for the proposed treatment of the remains and associated grave goods.

If human remains are encountered during construction, the archaeologist contracted to evaluate the situation should prepare a report documenting the methods and findings of the investigation. This report should be submitted to the Northwest Information Center.

With implementation of the proposed mitigation measures, the proposed project will have a less than significant impact on unknown buried prehistoric and historic artifacts located on the project site. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

Based on the underlying geologic formation of the project site, the General Plan FEIR found the project site to have a high sensitivity (at depth) for paleontological resources. Geologic units of Holocene age are generally not considered sensitive for paleontological resources; however, mammoth remains were found along the Guadalupe River in San José in 2005.

The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on paleontological resources. Thus, although the project proposes one level of underground parking, by following the adopted General Plan Policies, the proposed project will have a less than significant impact on paleontological deposits. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.5.2.3 Impacts to Historic Buildings

The project site is currently vacant with no buildings on-site. The project area, which includes buildings within one block of the project site, does not include any buildings that are currently listed in the City of San Jose's Historic Resources Inventory. The nearest historic resource is Pellier Park, located more than 450 feet south of the project site. Development of the project site will have a less than significant impact on historic structures. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.5.3 Conclusion

Implementation of the proposed project will have the same less than significant impact on subsurface paleontological resources as previously identified in the Downtown Strategy 2000 FEIR and the General Plan FEIR. **[Same Impacts as Approved Project (Less Than Significant Impact)]**

Implementation of the proposed mitigation measures, consistent with the Brandenburg FEIR and the Downtown Strategy 2000 FEIR, will reduce impacts to as yet unrecorded subsurface prehistoric and historic resources to a less than significant level. **[Same Impacts as Approved Project (Less Than Significant Impact With Mitigation)]**

Implementation of the proposed project will have no impact on historic structures. **[Same Impacts as Approved Project (Less Than Significant Impact)]**

4.6 GEOLOGY AND SOILS

4.6.1 Setting

4.6.1.1 Geology and Soils

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin south of the San Francisco Bay, north and northeast of the Santa Cruz Mountains, and west of the Diablo Mountain Range. Soils at the site consist of Quaternary-aged sand, gravel, silt, clay, and mud.[10] Soil borings show undocumented fill between seven to 15 feet below ground surface (bgs). Below the fill are layers of unconsolidated clay, silt, and sand up to 80 feet bgs, the maximum soil boring depth.

Groundwater

The highest groundwater level is estimated between 15 feet to 20 feet bgs based on the Phase I Environment Site Assessment[11] for the proposed project.

4.6.1.2 Seismicity and Seismic Hazards

The San Francisco Bay Area is one of the most seismically active region in the United States. Strong ground shaking can be expected at the site during moderate to severe earthquakes in the general region. The significant earthquakes that occur in the Bay Area are generally associated with crustal movement along well defined active fault zones of the San Andreas Fault System.

TABLE 4.6-1
Active Faults Near the Project Site

Fault	Distance from Site
Hayward	4.9 miles
Monte Vista – Shannon	7.2 miles
Calaveras	8.3 miles
San Andreas	11.3 miles

The project area is not located within the Alquist-Priolo Earthquake Fault Zone[12], the Santa Clara County Geologic Hazard Zone, the City of San José Potential Hazard Zone[13] and no active faults have been mapped on the project site. The risk of fault rupture is low. Faults in the region are, however, capable of generating earthquakes of magnitude 7.0 or higher and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Active faults near the project site are shown in Table 4.6-1.

[10] City of San Jose. *Brandenburg Mixed Use Project/North San Pedro Housing Sites Environmental Impact Report.*. August 2003.
[11] The Phase I Environment Site Assessment is attached in Appendix B.
[12] California Department of Conservation Website. <http://www.quake.ca.gov/gmaps/ap/ap_maps.htm> Accessed February 3, 2015.
[13] Santa Clara County, *Santa Clara County Geologic Hazard Zones*, Map 20, 2002. <http://www.sccgov.org/sites/planning/GIS/GeoHazardZones/Documents/GeohazardMapsATLAS2.pdf> Accessed February 3, 2015.

4.6.1.3 Liquefaction and Lateral Spreading

Liquefaction and Differential Settlement

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Factors that contribute to liquefaction include soil age, soil type, soil cohesion, soil density, and depth to groundwater. Soils that are saturated, uniformly graded, and loose are more susceptible to liquefaction. Soil layers that are near the ground surface and in proximity to the groundwater have a higher liquefaction potential than those not near the groundwater and at lower depths. The project site is located in a liquefaction zone.[14]

Differential settlement is the unequal settlement of material that causes a gradual, uneven downward movement of a structure's foundation. The geologic and soil investigations on-site estimated differential movement in the foundations to be up to two inches for the proposed development.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal ground movement of flat-lying soil deposits towards a free face (i.e. an excavation, river channel, or open sea). While the project is located in a liquefaction zone, the liquefaction potential is very low and the closest free face, the Guadalupe River, is approximately 0.19 miles west of the project site. Therefore, the effect of lateral spreading on the project site is also low.

4.6.1.3 Applicable Geological Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-4.1: Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

[14] Envision San José 2040 General Plan FEIR. *Geologic and Seismic Hazards Map*.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.6.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☐	☒	1-5
b. Strong seismic ground shaking?	☐	☐	☐	☒	1-5
c. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	1-5
d. Landslides?	☐	☐	☐	☒	1-5
2. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	1-5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	1-5
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	☐	☐	☐	☒	1-5
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, the proposed project would result in less than significant geology and soils impacts, as described below.

4.6.2.1 Geological Impacts

The project site and surrounding areas are relatively flat and, as a result, the project would not be exposed to landslide or erosion related hazards. The project site has very low potential for liquefaction and low potential for lateral spreading during large seismic events. In addition, due to the unconsolidated characteristics of the soil on-site to the depth of 15 feet bgs, the Brandenburg FEIR concluded that the differential settlement during large seismic events would be two inches or less for the proposed development.

Due to the potential for differential settlement, and undocumented fill, the Brandenburg FEIR included recommendations regarding the design of building and parking foundations, dewatering for utility trenching, site preparation and demolition activities, and excavation. The proposed project would, consistent with the measures outline below, be built and maintained in accordance with the design-specific geotechnical report and applicable regulations including the most recent California Building Code which contains the regulations that govern the construction of structures in California.

Impact GEO-1: The site has the potential for differential settlement and could be impacted by seismic activity and shallow groundwater.

Mitigation and Avoidance Measures

The project will implement the following measures consistent with the Downtown Strategy 2000 FEIR:

MM GEO-1.1: Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San Jose Public Works Department for review and confirmation that the proposed development fully complies with the California Building Code and the requirements of City Ordinance No. 25015 and Building Division Policy No. SJMC 24.02.310-4-94. The report shall determine the project site's surface geotechnical conditions and address potential seismic hazards, such as liquefaction and subsidence. The report shall identify building techniques appropriate to minimize seismic damage. In addition, the following requirement for the geotechnical and soils report shall be met:

- Analysis presented in the geotechnical report shall conform to the California Division of Mines and Geology recommendations presented in the "Guidelines for Evaluating Seismic Hazards in California."
- All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed.

MM GEO-1.2: In locations underlain by expansive soils and/or non-engineered fill, the designers of proposed building foundations and improvements (including sidewalks, roads, and utilities) shall consider these conditions. The design-level geotechnical investigation shall include measures to ensure that potential damage related to expansive soils and non-uniformly compacted fill are minimized. Options to address these conditions may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.

MM GEO-1.3: The design-level geotechnical investigation shall evaluate the consolidation properties of the underlying sediments to determine the potential for settlements associated with dewatering and other potential earth movements. If it is determined that unacceptable settlements may occur with either active or passive dewatering systems, then alternative groundwater control systems that do not require continuous groundwater removal (e.g., slurry wall) shall be required.

The Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR concluded that adherence to the California Building Code and consistency with the applicable General Plan policies would reduce seismic related impacts to a less than significant level.

Because the proposed project would comply with the California Building Code, applicable General Plan policies, and the mitigation measures in the Downtown Strategy 2000 FEIR, consistent with the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, the project

would have a less than significant geologic impact. **[Same Impact as the Approved Project (Less Than Significant Impact With Mitigation)]**

The project site is located within an urbanized area of San José where sewers are available to dispose wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **[Same Impact as the Approved Project (No Impact)]**

4.6.2.2 Construction Impacts

The majority of the site is flat and covered with ruderal vegetation. While the site is vacant, due to the dense vegetation, very little soil on-site is currently susceptible to wind and water erosion. Ground disturbance would be required for demolition of the existing hardscape, grading, and construction of the proposed project. Ground disturbance and removal of the existing vegetation would expose the soil and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's National Pollution Discharge Elimination System Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions identified in the General Plan FEIR for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions

- All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
- Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
- Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

Because the project would implement the identified Standard Permit Conditions and comply with the policies and regulations identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, implementation of the proposed project would have a less than significant soil erosion impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.6.3 Conclusion

Implementation of the proposed project would have the same less than significant geological impacts as previously identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of greenhouse gases (GHGs) have a broader, global impact. Global warming associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.2 Regulatory Background

4.7.2.1 State of California

AB 32, CEQA, and Other Laws and Regulations

The Global Warming Solutions Act (also known as "Assembly Bill (AB) 32") sets the State of California's 2020 GHG emissions reduction goal into law. The Act requires that the GHG emissions in California be reduced to 1990 levels by 2020. Prior to adoption of AB 32, the Governor of California also signed Executive Order S-3-05 which identified CalEPA as the lead coordinating State agency for establishing climate change emission reduction targets in California. Under Executive Order S-3-05, the State plans to reduce GHG emissions to 80 percent below 1990 levels by 2050. Additional State laws and regulations related to the reduction of GHG emissions include SB 375, the Sustainable Communities and Climate Protection Act (see discussion below), the State's Renewables Portfolio Standard for Energy Standard (Senate Bill 2X), and fleet-wide passenger car standards (Pavley Regulations).

The California Natural Resources Agency, as required under State law (Public Resources Code Section 21083.05) has amended the State CEQA Guidelines to address the analysis and mitigation of GHG emissions. In these changes to the CEQA Guidelines, Lead Agencies, such as the City of San José, retain discretion to determine the significance of impacts from GHG emissions based upon individual circumstances. Neither CEQA nor the CEQA Guidelines provide a specific methodology for analysis of GHGs and under the amendments to the CEQA Guidelines, a Lead Agency may describe, calculate, or estimate GHG emissions resulting from a project and use a model and/or qualitative analysis or performance based standards to assess impacts.

Senate Bill 375

Senate Bill 375 (SB 375), also known as the Sustainable Communities and Climate Protection Act of 2008, requires regional transportation plans to include a Sustainable Communities Strategy (SCS) that links transportation and land use planning together into a more comprehensive, integrated process. The SCS is a mechanism for more effectively linking a land use pattern and a transportation

system together to make travel more efficient and communities more livable. The result is reduced GHG emissions from passenger vehicles along with other benefits.

The target for the Bay Area is a seven percent per capita reduction in GHG emissions attributable to automobiles and light trucks by 2020 and a 15 percent per capita reduction by 2035. The base year for comparison of emission reductions is 2005. The 2013 Regional Transportation Plan will be the Bay Area's first plan that is subject to SB 375.[15]

Plan Bay Area has been prepared and approved in April 2014 as the region's SCS. The project site is within an area designated as a *City Center* in a Priority Development Area. Priority Development Areas are those areas where most of the growth in the Bay Area is anticipated to occur.

4.7.2.2 BAAQMD CEQA Guidelines and 2010 Bay Area Clean Air Plan

BAAQMD identifies thresholds of significance for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines. These guidelines include recommended significance thresholds, assessment methodologies, and mitigation strategies for GHG emissions. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHGs.

The Bay Area 2010 CAP addresses GHG emissions along with other air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the CAP is climate protection. The 2010 CAP includes emission control measures in five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact Measures, and Energy and Climate Measures. Consistency of a project with current control measures is one measure of its consistency with the CAP. The current CAP also includes performance objectives, consistent with the State's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

4.7.2.3 Existing On-Site GHG Emissions

The project site is currently vacant and does not generate GHG emissions.

4.7.3 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1,8

[15] One Bay Area. "One Bay Area Fact Sheet". <http://www.onebayarea.org/pdf/SB375_OneBayArea-Fact_Sheet2.pdf > Accessed February 19, 2015.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1,8

Neither the Brandenburg FEIR nor the Downtown Strategy 2000 FEIR addressed GHG impacts

4.7.3.1 Operational Emissions

The proposed project would construct 313 residential units on a currently vacant site. GHG emissions from the project were calculated using the CalEEMod model, based on an operational start year of 2018 and a service population of 967 persons[16]. The model calculated emissions for transportation, area sources, electricity consumption, natural gas combustion, electricity usage associated with water usage and wastewater discharge, and solid waste land filling and transport.

TABLE 4.7-1
Annual Project GHG Emissions in Metric Tons (CO_2e)

Source Category	2018 Project Emissions
Area	18
Energy Consumption	732
Mobile	1,817
Solid Waste Generation	66
Water Usage	71
Total Emissions Per Year	**2,704**
BAAQMD Bright-Line Threshold	*1,100*
Emissions Per Service Population	**2.8**
BAAQMD Service Population Threshold	*4.6*

As shown in Table 4.7-1, total operational emissions were calculated at 2,704 metric tons (MT) of CO_2e per year, which is above the bright line threshold of 1,100 metric tons of CO_2e per year. Because the emissions would exceed the bright line threshold, emissions were calculated per service population. Operation of the entire site would generate 2.8 metric tons (MT) of CO_2e per year per service population, which is below the efficiency threshold of 4.6 MT of CO2e per year. In addition, the project will be subject to the City's Green Building Ordinance.

The project will not preclude the City or State from meeting emission reduction goals by the horizon year 2020 and will have a less than significant operational GHG impact. [**New Less Than Significant Impact (Less Than Significant Impact)]**

4.7.3.2 Construction Emissions

The proposed development would result in minor increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from

[16] The project service population was estimated based on 3.09 persons per household from the U.S. Census Bureau data for San Jose.

construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. GHG emissions associated with construction were calculated to be 1,164 MT of CO_2e over the entire construction period. Because project construction will be a temporary condition and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32, the increase in emissions would be considered less than significant. [**New Less Than Significant Impact (Less Than Significant Impact)]**

4.7.4 Conclusion

Development of the proposed project would have a less than significant GHG impact. [**New Less Than Significant Impact (Less Than Significant Impact)]**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment prepared for the project site (APNs 259-24-008, -020, and -039) by *Cornerstone Earth Group* in February 2015. A copy of this report is provided in Appendix B of this document.

4.8.1 Setting

4.8.1.1 Existing and Historic Land Uses On-Site

The project site is currently vacant. The first documented development on the project site is in 1891. Based on available data, the site was occupied by a cooper shop (barrel maker). In 1915, the Bean Spray Pump Company occupied the site along with the cooper shop and railroad tracks bisect the site. By 1950, the site was occupied by a U.S. Government canned goods warehouse and an auto body shop. The railroad tracks were still present and three structures (labeled as agricultural insecticides) were located on the northern end of the site.

Between 1950 and 1969, the businesses on-site had changed. By 1969 the site was occupied by a foundry, a lithographic business, a furniture store, and a junk yard. The former "agricultural insecticides" buildings were being utilized as storage and a drayage warehouse. The railroad tracks were still present.

The buildings on the southern portion of the site were demolished between 1982 and 1993. The buildings on the northern portion of the site were demolished in the mid-1990's.

4.8.1.2 Groundwater

The project site is located approximately 0.19 miles east of the Guadalupe River. The highest groundwater level is estimated to occur at 15-20 feet bgs. Seasonal fluctuations influence groundwater levels and may cause variations in the groundwater level. Groundwater flows in a north to northwest direction in the project area.

4.8.1.3 On-Site Sources of Contamination

The following discussion is based on the Phase I Environmental Site Assessment prepared in February 2015. No hazardous materials users have occupied the site since the mid-1990's and no major land use changes have occurred.

Hazardous Materials Releases and On-Site Contamination

The project site was identified on two regulatory databases. The cooper shop that previously occupied the site is listed on the CERCLIS *No Further Remedial Action Planned* (NFRAP) database. No details regarding the site assessment were found. The site is also listed as an open case on the Water Board's Spills, Leaks, Investigation and Cleanup (SLIC) database. This listing appears to be associated with a request by the Redevelopment Agency in 2007 for Water Board oversight for a

previously planned development project on-site. The database listing notes that for the previously planned development, capping of the site was sufficient to limit exposure to future residents.

In 2000, *Azure* completed soil sampling in the vicinity of the buildings used as the cooper shop, auto body shop, and junk yard (201 West Julian Street). Soil samples were collected at depths of two to eight feet and tested for organochlorine pesticides, polychlorinated biphenyls (PCBs), total petroleum hydrocarbons (TPH as gasoline, diesel, and motor oil), BTEX (benzene, toluene, ethylbenzene, and xylenes), volatile organic compounds (VOCs), and metals. PCBs, BTEX compounds, and VOCs were not detected. Metals were detected at concentrations typical of natural background levels. Motor oil was detected at 98 mg/kg, diesel was detected at 2.9 mg/kg, DDT was detected at 0.0072 mg/kg, and DDE was detected at 0.0061 mg/kg. According to a follow up analysis by *Secor* in 2005, no remediation activities were required to allow for residential development on-site and the Regional Water Quality Control Board issued a No Further Action letter.

In 2000, *Azure* completed soil sampling along the former railroad track that bisected the site. Soil samples were collected at depths of two to five feet and tested for THP (gasoline, diesel, and motor oil), BTEX, and metals. Gasoline and motor oil were not detected. Metals were detected at concentrations typical of natural background levels. Diesel was detected at a level of 1.6 mg/kg.

In 2003, *Azure* completed soil sampling in the vicinity of the buildings used to store agricultural insecticides (200/206 Bassett Street). Soil samples were collected at depths of two to eight feet and tested for organochlorine pesticides and PCBs. One of the soil borings was also tested for THP (gasoline, diesel, and motor oil), BTEX and metals. Pesticides, PCBs, and BTEX compounds were not detected. Metals were detected at concentrations typical of natural background levels. Motor oil was detected at levels of 510 to 3,400 mg/kg. In 2003, remediation activities were completed and, according to *Azure,* the Regional Water Quality Control Board issued a No Further Action letter to allow for residential development on-site.

In 2005, *Secor* completed subsequent soil sampling on-site. Sampling locations included 235 West Julian Street, the former metal foundry, 201 West Julian Street, 200 Bassett Street, and along the former rail line. Soil samples were tested for TPH (diesel and motor oil), VOCs, metals, and PCBs. Groundwater samples were also collected and tested for TPH (diesel and motor oil) and VOCs. The testing found elevated metal concentrations, including arsenic, chromium, copper, lead, nickel, and zinc, in the shallow soil samples above typical background levels. Some of the concentrations also exceeded residential screening levels. Limited PCB concentrations above residential screening levels were detected in one sample. Elevated levels of TPH (diesel) were detected at depths of 15 to 20 feet and were above the residential screening level. TPH (diesel) was also found in the groundwater samples at levels well above the Water Board's environmental screening level.

Due to the results of the 2005 soil/groundwater testing, *Secor* completed a human health risk assessment (HHRA) in 2006. *Secor* concluded that construction workers and future residents would not be significantly impacted by chemicals of concern in soil, soil vapor, and groundwater. The HHRA was, however, limited to the northern portion of the site and did not include locations with elevated PCB and arsenic concentrations.

In 2006, *TRC Lowney* completed another on-site evaluation of soil, soil vapor, and groundwater. Low concentrations of TPH (diesel and motor oil) were detected, but the concentrations did not exceed the residential screening levels. Elevated concentrations of arsenic, copper, and lead were detected above typical background levels and residential screening levels. No contaminates were found in the groundwater samples above residential screening levels. *TRC Lowney* collected three soil vapor samples to the approximate depth of the previously planned underground parking structure. While TPH and VOC's were detected in the soil vapor samples, the concentrations did not exceed residential screening levels.

Lead and Asbestos

The previous buildings on-site were constructed prior to 1970. Due to the age of the buildings, remnant asbestos-containing materials (ACMs) and/or flakes of lead-based paint could be present. ACMs are of concern because exposure to ACMs has been linked to cancer. ACMs are defined by the Federal Environmental Protection Agency as material containing more than one percent asbestos. Title 8, Section 1529, of the California Code of Regulations (CCR), however, defines asbestos-containing construction material (ACCM) as any manufactured construction material which contains more than one-tenth of one percent asbestos by weight.

Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. Lead compounds continued to be used as corrosion inhibitors, pigments and drying agents from the early 1950's. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 parts per million [ppm]) and in 1978, to 0.06 percent (600 ppm).

4.8.1.4 Off-Site Sources of Contamination

In the immediate vicinity of the project site, there are three industrial buildings and two vacant lots. Two of the buildings, cross-gradient to the site, are currently in the process of being demolished and do not currently use or store hazardous materials. The third building is down-gradient of the site. Due to the nature of the businesses allowed, there would not be large qualities of hazardous materials utilized on-site and no explosion risk. Hazardous materials risks would result from a release or leak into the soil and/or groundwater. Because this building is down-gradient of the project site, if hazardous materials are or were previously in use on the site, any release would not impact the project site.

Hazardous Materials Releases

The downtown area of San José has been developed for over 100 years with a variety of commercial, residential, and industrial land uses. Similar to the project site, the surrounding parcels have been developed primarily with industrial/commercial land uses since the late 1800's. Table 4.8-1 below summarizes off-site releases of hazardous materials that could have impacted the project site.

TABLE 4.8-1 Hazardous Materials Releases in the Project Vicinity		
Facility Name and Address	**Distance and Direction from Project Site**	**Database Listing/Comments**
Brandenburg Properties 330 Terraine Street	50 feet east	Listed as a closed leaking underground storage tank (LUST) case. Building is currently being demolished.
Brandenburg Properties 160 W. Julian Street	275 feet southeast	Listed as a closed LUST case.
Brandenburg Properties 185 W. Julian Street	100 feet east	Listed as a closed LUST case.
Brandenburg, Steadler, & Moore 153 W. Julian Street	150 feet east	Listed as a closed case on the Water Board's SLIC database.
Brandenburg Properties 345 N. San Pedro Street	250 feet east	Listed as a closed LUST case.
FMC Corporation 333 W. Julian Street	350 feet southwest	Listed as an open case on the Water Board's Cleanup Program Site database. The case is noted to be open and verification monitoring is on-going,

4.8.1.5 Applicable Hazards and Hazardous Materials Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.

Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed

land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards navigation.

Policy TR-14.3: For development in the vicinity of airports, take into consideration the safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports.

Policy TR-14.4: Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.8.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	1-5,9

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐	1-5,9
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	1-5,9
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒	1-5,9
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1-5
6. For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1-5
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1-5
8. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, the proposed project would result in less than significant hazards and hazardous materials impacts, as described below.

4.8.3 Hazards and Hazardous Materials Impacts

4.8.3.1 On-Site Soil and Groundwater Contamination Impacts

The entire site will be excavated to a depth of approximately 12 feet to construct the underground parking garage. Based on multiple soil/groundwater samples taken on-site over a period of approximately six years, soil and groundwater has been impacted by historic activities on-site. At intermittent locations, the contaminant concentrations exceed residential screening levels.

Due to the design of the project, the entire site will be excavated to a depth of approximately 12 feet, and all soils removed, including shallow soil contaminants. Clean fill will be utilized for at grade landscape areas. Once constructed the entire site will be capped by the underground parking structure. As a result, future residents of the site will not be exposed to any on-site contamination. Soil vapors were detected below residential screening levels and would not pose a risk to future residents.

Development of the proposed project would require site excavation and grading which could result in impacts to construction workers from exposure to contaminated soils. Based on the recorded depth to groundwater (15 to 20 feet) and current drought conditions, it is reasonable to assume that excavation to a depth of 12 feet would not result in exposure to groundwater.

Impact HAZ-1: Implementation of the proposed project could expose construction workers to contaminated soils. **(Significant Impact)**

Mitigation Measures: Pursuant to the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the Phase I Report, the project proposes to implement the following mitigation measures:

MM HAZ 1-1: A Soil Management Plan (SMP) and a Health and Safety Plan (HSP) shall be prepared by a qualified hazardous materials consultant. The SMP will include a soil sampling and handling plan which will test and profile soils to be excavated and off-hauled, and maintenance requirements to ensure that the long-term soil management measures, specifically capping the soils will remain effective during use of the site and during the occupancy period. The HSP will outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction. The SMP and HSP shall be prepared and submitted to the City of San José Department of Planning, Building and Code Enforcement and the Environmental Services Department for review and approval prior to issuance of grading permits.

Also prior to issuance of grading permits, the Regional Water Quality Control Board (RWQCB) will be notified of the pending construction to make a determination if continued oversight is required. If it is determined that oversight is required, the SMP will also be submitted to the RWQCB for review and approval.

MM HAZ 1-2: If deep foundations are utilized for the project, the foundation system shall be designed to limit the potential for downward migration of contaminated groundwater.

Measures shall be included in the project design to reduce groundwater migration through trench backfill and utility conduits. Such measures shall include placement of low-permeability backfill "plugs" at specified intervals on-site and at all locations where the utility trenches extend off-site.

Conformance with the proposed mitigation will result in a less than significant impact from soil contamination on-site. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

4.8.3.2 Asbestos-Containing Materials and Lead-Based Paint Impacts

The site is currently vacant, but all the buildings previously located on-site were constructed prior to 1970 and most likely had materials that contain ACMs and/or lead-based paint. Lead was found in soil samples taken from the site, but testing for asbestos was not completed. If previous demolition activities on-site resulted in remnant ACMs (such as underground pipes or other building debris still on-site), disturbance of these materials during construction of the proposed project could expose construction workers to harmful levels of asbestos.

If lead-based paint was peeling, flaking, or blistered at the time of demolition, it would have become separated from the building components during demolition activities and would be in the soil. Disturbance of these materials during construction of the proposed project could expose construction workers to harmful levels of lead.

Impact HAZ-2: Implementation of the proposed project could expose construction workers to lead contaminated soils and/or remnant ACMs from previous building demolition. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures:

MM HAZ 2-1: The SMP and HSP will include a soil sampling and handling plan which will test for lead and profile soils to be excavated and off-hauled. Any soil containing lead paint or coating must be disposed of at landfills that are permitted to accept such waste.

The HSP will outline proper procedures for the handling of lead contaminated soils and remnant ACMs and health and safety requirements to minimize worker exposure to these hazardous materials during construction. The SMP and HSP shall be prepared and submitted to the City of San José Department of Planning, Building and Code Enforcement and the Environmental Services Department for review and approval prior to issuance of grading permits.

Conformance with the proposed mitigation will result in a less than significant impact from ACMs and Lead. **[New Less Than Significant Impact (Less Than Significant Impact With Mitigation)]**

4.8.3.3 Off-Site Soil and Groundwater Contamination Impacts

The Phase I report identified six known sites associated with hazardous materials releases in the project vicinity. Soil contamination is localized and, because none of the hazardous materials users are directly adjacent to the project site, off-site soil contamination would have no direct exposure impact on the proposed project.

Although soil contamination is localized, contaminants can migrate from their original source through groundwater and contaminate nearby areas. The FMC Corporation site currently has an open case with the Water Board, meaning the release on the FMC site impacted the groundwater. The FMC site is, however, located southwest of the project site. Groundwater flows in a north to northwest direction. As a result, it is unlikely that contaminated groundwater from the FMC site would reach the project site. Therefore, the proposed project will not be impacted by off-site soil and/or groundwater contamination. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.3.4 Other Hazard Impacts

The project site is located less than two miles from the Norman Y. Mineta San Jose International Airport. Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing reflective surfaces, flashing lights, electronic interference and other potential hazards to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by a set of imaginary surfaces radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure of a height greater than approximately 120 feet above ground is required under FAR Part 77 to be submitted to the FAA for review.

At a proposed maximum height of 192 feet (to the top of the mechanical enclosure) above ground, the project is required to be reviewed by the FAA. The developer has submitted the required project notifications and the FAA review is currently underway. Although the FAA does not have land use authority over the proposed project, City General Plan policy requires FAA issuance of "no hazard" determinations prior to project approval, with any conditions set forth in an FAA no-hazard determination to be incorporated into the City's project approval. Conformance with this General Plan policy ensures that the project will not be a hazard to aircraft operations.

The project site (nearest Highway 87) is located within the Norman Y. Mineta San José International Airport Influence Area (AIA) which is a composite of the areas surrounding the airport that are

affected by noise, height, and safety considerations.[17] In addition, the western-most portion of the parking structure may be located within the *Comprehensive Land Use Plan* (CLUP) "Outer Safety Zone". The project will be required to follow all applicable General Plan policies, regulations, and procedures outlined in the CLUP for the Norman Y. Mineta San José International Airport. The project will not, therefore, result in a substantial safety hazard for people residing or working at the project site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The proposed project would not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (No Impact)]**

The proposed project is located in a highly urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people of structures to any risk from wildland fires. **[Same Impact as Approved Project (No Impact)]**

4.8.4 Conclusion

With implementation of the identified mitigation measures, the project would have the same less than significant hazardous materials impacts that were identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

[17] Walter B. Windus, PE. Aviation Consultant. *Comprehensive Land Use Plan: Norman Y. Mineta San José International Airport.* May 2011. http://www.sccgov.org/sites/planning/PlansPrograms/ALUC/Documents/ALUC_20110525_SJC_CLUP.pdf Accessed March 17, 2015.

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0234H), the project site is located in Flood Zone X. Zone X is designated as areas of 0.2 percent annual chance flood, areas of one percent annual chance flood with average depths of less than one foot or with drainage areas of less than one square mile, and areas protected by levees from one percent annual chance floods.

4.9.1.2 Dam Failure

Based on the Santa Clara Valley Water District dam failure inundation hazard maps, eastern sections of the Santa Clara Valley are located in the Anderson Dam failure inundation hazard zone, including the project site.[18] The project site is located over 18 miles from Anderson Reservoir.

4.9.1.3 Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that will affect the site in the event of a seiche. There are no bodies of water (i.e., the Pacific Ocean and the San Francisco Bay) near the project site that will affect the site in the event of a tsunami.[19] The project area is flat and there are no mountains in proximity that will affect the site in the event of a mudflow.

4.9.1.4 Storm Drainage System

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into the Guadalupe River. The Guadalupe River carries stormwater from the storm drains into San Francisco Bay. The Guadalupe River is approximately 0.19 miles west of the project site. A a result, there is no overland release of stormwater from the project site to the river.

Currently, six percent of the project site is covered with impervious surfaces. The pervious surface area is comprised entirely of ruderal vegetation and barren soil throughout the site. There are existing storm drain lines that run along the eastern border of the site (under Terraine Street) that would serve the proposed development.

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[18] Santa Clara Valley Water District. *Andersen Dam EAP 2009 Flood Inundation Maps. 2009*. <http://www.valleywater.org/uploadedFiles/Services/CleanReliableWater/WhereDoesYourWaterComeFrom/Reservoirs/Anderson_Dam/Anderson%20Inundation%20Maps%202009.pdf?n=6912> Accessed March 16, 2015.

[19] Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region.* <http://quake.abag.ca.gov/tsunamis>. Accessed March 16, 2015.

4.9.1.5 Water Quality

As stated above, stormwater from the project site drains to the Guadalupe River. The water quality of the Guadalupe River is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Based on data from the Environmental Protection Agency (EPA)[20], the Guadalupe River is currently listed on the California 303(d)[21] list and the Total Maximum Daily Load (TMDL) high priority schedule for mercury and trash.[22] A TMDL for mercury was established in 2010.

Nonpoint Source Pollution Program

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the San José area is the San Francisco Regional Water Quality Control Board (RWQCB).

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared prior to commencement of construction.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all of the post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities. The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) assists co-permittees, such as the City of San José, implement the provisions of the Municipal NPDES Permit.

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[20] U.S. Environmental Protection Agency. *California 303(d) Listed Waters.* <http://ofmpub.epa.gov/waters10/attains_state.control?p_state=CA&p_cycle=2010> Accessed March 16, 2015.

[21] The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.

[22] A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

Santa Clara Valley Urban Runoff Pollution Prevention Program

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed by the RWQCB to assist co-permittees in implementing the provisions of the NPDES permit. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Environmental Protection Agency develop NPDES application requirements for stormwater runoff. The Program's Municipal NPDES stormwater permit includes provisions requiring regulation of storm water discharges associated with new development and development of an area-wide watershed management strategy. The permit also identifies recommended actions for the preservation, restoration, and enhancement of the San Francisco Bay Delta Estuary.

Applicable projects consist of all new public and private projects that create 10,000 square feet or more of impervious surface collectively over the entire project site and redevelopment projects that add or replace 10,000 square feet or more of impervious surface area on the project site. Additional requirements must be met by large projects (formerly known as Group 1 projects) that create one acre or more of impervious surfaces. These large projects must control increases in runoff peak flow, volume, and duration (referred to as Hydromodification) caused by the project if the increase in stormwater runoff has the potential to cause erosion or other adverse impacts to receiving streams.

Hydromodification

In addition to water quality controls, the Municipal Regional Stormwater NPDES permit requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious (per the San José Permittees Hydromodification Management Applicability Map).

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy No. 6-29 requires all new and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs) such as Low Impact Development (LID) measures to treat stormwater runoff. These measures are also utilized to reduce the total amount of stormwater runoff from a site. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements, because it is located in a subwatershed greater than or equal to 65 percent impervious.[23]

4.9.1.6 Groundwater

Based on the Phase I Environmental Site Assessment completed for the site, groundwater is found approximately 15 to 20 feet bgs. Groundwater levels will typically fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors.

4.9.1.7 Applicable Hydrology and Water Quality Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy IN-3.9: Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-5.1: The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual change of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

Policy EC-5.7: Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

[23] Santa Clara Valley Urban Runoff Pollution Prevention Program Web Site. Hydromodification Management Applicability Maps. <http://www.scvurppp-w2k.com/hmp_maps.htm> Accessed March 16, 2015.

Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.

Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

Policy ER-10.5: Protect groundwater recharge areas, particularly creeks and riparian corridors.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.9.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒	1-5
2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	1-5
3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	☐	☐	☐	☒	1-5
4. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☐	☒	1-5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
5. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒	1-5
6. Otherwise substantially degrade water quality?	☐	☐	☐	☒	1-5
7. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	1-5,10
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	1-5,10
9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	1-5
10. Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, the proposed project would result in less than significant hydrology impacts, as described below.

4.9.2.1 Flooding Impacts

Based on the FEMA flood insurance rate maps, the site is outside the 100-year flood plain. When originally analyzed as part of the Brandenburg FEIR, the project site was located in Flood Zone AH, which is subject to 100 year floods with depths of one to three feet. In accordance with the Municipal Code (Section 17.08), the FEIR concluded that residential only project would not be allowed with underground parking within Flood Zone AH. The Guadalupe River Flood Protection Project (Alviso Marina to Interstate 280) was under construction at this time and its completion resulted in FEMA remapping the project area to remove it from the 100-year flood zone (it is now mapped as Zone X). Consistent with the findings of the Brandenburg FEIR, construction of the proposed project with underground parking outside the 100-year flood zone and consistent with the City's Special Flood Hazard Ordinance would result in a less than significant flood risk for people and structures. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project site is located within the Anderson Reservoir dam failure inundation area. Inundation areas, as identified in the General Plan, assume complete failure of the dam with a full reservoir that is completely emptied. Existing regulations and adopted plans and policies reduce the risks to people and property in San José from dam failure. In particular, the California Department of Water

Resources, Division of Safety of Dams (DSOD) is responsible for regular inspection of dams in California. DSOD inspects each dam on an annual basis to ensure the dams are safe, performing as intended, and not developing problems. In addition, the SCVWD routinely monitors and studies the condition of each of its 10 dams, including Anderson.

The General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of dam failure would be less than significant. Therefore, the proposed project would have a less than significant dam induced flooding impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.2 Water Quality Impacts

Construction Impacts

The proposed residential development will disturb approximately 1.52 acres of land, which is above the one acre threshold. Therefore, construction of the proposed project would be required to comply with the NPDES General Permit for Construction Activities. Demolition and construction activities would temporarily increase the amount of debris on-site and grading activities would increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. As a result, construction activities on-site would result in a temporary increase in stormwater runoff pollutants.

All development projects in San José must also comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the applicant would be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Standard Permit Conditions

Pursuant to the NPDES General Permit for Construction and the City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered.

- All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily with water sweepers.

- Vegetation in disturbed areas shall be replanted as quickly as possible.

- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

- A Stormwater Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB measures.

- The project proponent will submit a copy of the NOI and draft SWPPP to the City of San José for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.

- When construction is complete, a "Notice of Termination" (NOT) for the General Permit for Construction Activities will be filed with the RWQCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction Stormwater Management Plan is in place as described in the SWPPP for the site.

The Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Because construction of the proposed project includes the Standard Permit Conditions identified above, and would be required by the City to comply with the regulatory programs, the project would have a less than significant construction-related water quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Post-Construction Impacts

Under existing conditions, the project site is approximately six percent impervious. Upon completion of the proposed development, the project site would be approximately 78 percent impervious, a net increase of 47,856 square feet. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. Therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Management Policy 6-29 and the RWQCB Municipal Regional NPDES permit. In order to meet these requirements, the proposed development would include biotreatment planter boxes along the northern, western, and eastern perimeter and within the interior of the project site on the northern half of the site as well as a "green roof" on a portion of the parking structure. Stormwater runoff from these areas would drain into the treatment areas prior to entering the storm drainage system. The proposed treatment facilities would be numerically sized and would have sufficient capacity to treat

the roof and parking area runoff entering the storm drainage system consistent with the NPDES requirements. The remainder of the site will drain into a media filter. While media filters are typically not acceptable, the project is an infill, transit-oriented development which qualifies as a Category C Special Project. Projects in this category are permitted to treat a minimum of 10 percent of runoff by bioretention and a maximum of 90 percent by mechanical filtration.

The Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan that would be consistent with RWQCB requirements and in compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.3 Storm Drainage Impacts

Table 4.9-1, below, gives a breakdown of the pervious and impervious surfaces on the project site under both existing and project conditions.

TABLE 4.9-1
Pervious and Impervious Surfaces On-Site

Site Surface	Existing/Pre-Construction (SF)	%	Project/Post-Construction (SF)	%	Difference (SF)	%
Impervious						
Buildings and Pavement	4,054	*6%*	51,910	*78%*	+47,856	+72%
Pervious						
Pervious Surfaces	62,208	*94%*	14,352	*22%*	-47,856	-72%
Total	66,262	*100%*	66,262	*100%*		

Under existing conditions, 4,054 square feet (six percent) of the project site is covered with impervious surfaces. Under project conditions, the project site would be covered with approximately 51,910 square feet (78 percent) of impervious surfaces. Implementation of the project would result in a 72 percent increase in impervious surfaces at the project site which would result in a net increase in stormwater runoff compared to current conditions and would impact the capacity of the existing storm drainage system.

The Downtown Strategy 2000 FEIR and General Plan FEIR concluded that with planned improvements to the City storm drainage system and the implementation of stormwater BMPs, new development would not significantly impact the storm drainage system. Because the project would be required to conform to all applicable City policies, including Policy 6-29, the project would not exceed the capacity of the local drainage system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.4 Groundwater Impacts

The General Plan FEIR determined that new development and redevelopment consistent with the General Plan would not occur on or in proximity to any of the 18 major groundwater recharge systems operated by the Santa Clara Valley District including percolation facilities. The quantity of impervious surfaces on the project site would increase by 72 percent compared to the existing condition. The project site does not, however, contribute to recharging of the groundwater aquifers and this condition will not change once development is complete. As a result, implementation of the proposed project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction of the proposed residential building would include one level of below grade parking with a total depth of approximately 12 feet. On-site borings found groundwater at 15 to 20 feet bgs. Based on this data, the proposed development would not interfere with the shallow groundwater aquifer or overall groundwater flow or impact the deeper groundwater aquifers. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.3 Conclusion

The proposed project would implement the required Standard Permit Conditions and comply with all applicable City policies as identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and General Plan FEIR. Therefore, implementation of the proposed project would have less than significant hydrology impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10 LAND USE

4.10.1 Setting

4.10.1.1 Existing Land Uses

The 1.52-acre project site is currently vacant. A six-foot chain-link fence surrounds the property.

Figure 4.10-19 shows an aerial of the project site and surrounding land uses.

4.1.1.2 Surrounding Land Uses

Development in the project area is a mix of industrial, office, and residential land uses. Building heights vary by land use from one to 16 stories. The project site is bounded by Bassett Street to the north, Terraine Street to the east, Old West Julian Street south, and Highway 87 to the west. Highway 87 is elevated adjacent to the project site.

North of Bassett Street is a small vacant parcel used for car storage, the Union Pacific Railroad (UPRR) rail line, and a four-story multi-family apartment complex. The apartment complex is a cluster of five buildings and two parking structures around a center common open space area.

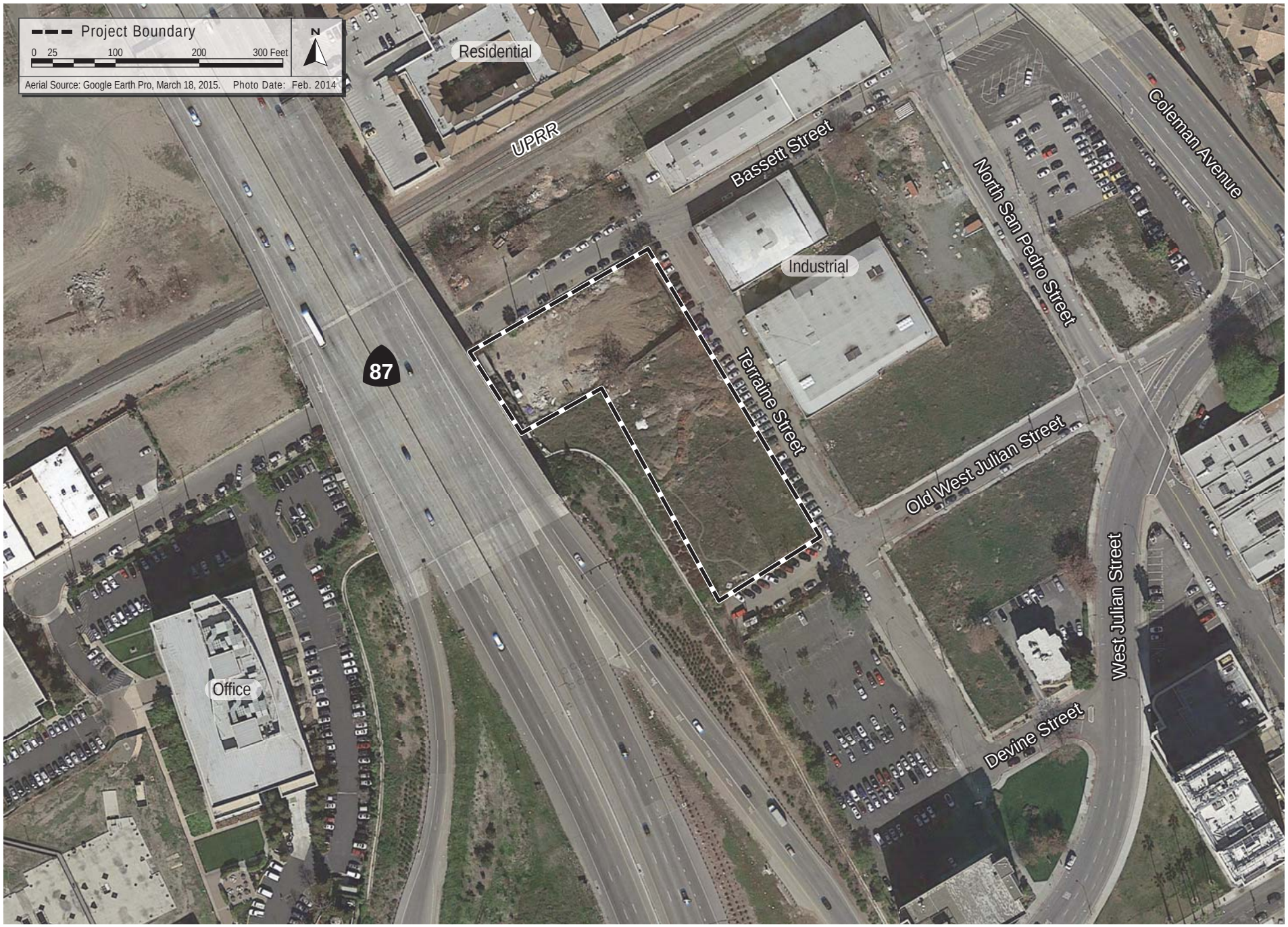
East of Terraine Street are three one- and two-story industrial buildings. The properties are in moderate to poor condition and two of the buildings, between Bassett Street and Old West Julian Street, are currently being demolished. There are also two vacant lots in similar condition to the project site.

South of Old West Julian Street is a large surface parking lot that serves a six-story office building. A 16-story residential tower is located east of the office building.

4.10.1.3 Existing Land Use Designation and Zoning

The project site is designated *Downtown* by the *Envision San José 2040 General Plan.* The project site is zoned *DC – Downtown Core*, consistent with the General Plan.

The General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, density of up to a floor area ratio (FAR) of 15.0 and residential densities up to 350 dwelling units per acre (DU/AC). Under this designation, residential projects should generally incorporate ground floor commercial uses.



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 4.10-1

Permitted land uses under the DC zoning are consistent with the *Downtown* General Plan land use designation. Based on the DC zoning, development shall only be subject to the height limitations necessary for the safe operation of Mineta San José International Airport. There are no minimum setbacks required.

4.10.1.4 Applicable Land Use Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

Policy LU-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.

Policy LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrian, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

Policy TR-14.3: For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

Policy TR-14.4: Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

4.10.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Physically divide an established community?	☐	☐	☐	☒	1-5
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	1-5
3. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant land use impacts, as described below.

4.10.3. Land Use Impacts

4.10.3.1 Consistency with the General Plan Land Use Designation and Zoning

The project site is currently designated *Downtown* in the City of San José General Plan and is zoned *DC – Downtown Core*. Implementation of the proposed project will result in the redevelopment of an underutilized site with high-density residential development that will place housing in proximity to transit, retail, services, and jobs within the downtown core. The project, combined with the other development proposed under the Brandenburg project, provide the mix of retail and residential uses preferred under the *Downtown* designation. As designed, the building conforms to the design parameters outlined in the zoning code. Therefore, the project site is consistent with the General Plan and zoning land use designations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.3.2 Land Use Impacts

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a residential/retail mixed-use project located in the downtown core area. This area is characterized by office buildings, restaurants, residential, small commercial establishments and both low-rise and high-rise buildings. Based on the analysis prepared for the Downtown Strategy 2000 FEIR, the proposed project will not conflict with the adjacent and nearby land uses because it is a compatible land use. Future residents could potentially utilize existing commercial businesses and restaurants

that are located within walking distance of the site and/or work in the downtown area enabling them to walk or use transit.

The project, as proposed, is consistent with the General Plan. The General Plan FEIR concluded that land use conflicts, including impacts to adjacent residential development and existing businesses, can be substantially limited or precluded with implementation of applicable General Plan policies and actions for planning and implementation as well as conformance with identified ordinances and adopted design guidelines. The proposed project will comply with all applicable City policies, actions and ordinances, and will be consistent with adopted design guidelines. Therefore, the proposed project would have a less than significant impact on surrounding land uses. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Shade and Shadow

The Brandenburg FEIR stated that the project would have a significant shade and shadow impact if it would result in a 10 percent or greater increase in the shadows cast onto any major public open space in the downtown area. Pursuant to the Downtown Strategy 2000 FEIR, a project would have a shade and shadow impact if it would result in a 10 percent or greater increase in the shadows cast onto St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, or McEnery Park, or substantially increase shadows at other public open spaces areas (excluding streets and sidewalks). The proposed project is not located in proximity to the aforementioned public spaces or any other public open space. Therefore, shadows cast by the proposed building will have no impact. **[Same Impact as Approved Project (No Impact)]**

Compatibility with Airport Operations

Much of the greater Downtown San José area, including the project site, is subject to several Federal and local regulations and policies due to proximity to San José International Airport and its aircraft flight paths. See Section 4.8 (*Hazards and Hazardous Materials*) regarding required project compliance with FAA, City General Plan, and ALUC Comprehensive Land Use Compatibility Plan height regulations and policies, and Section 4.12 (*Noise*) regarding required project compliance with City General Plan and ALUC noise policies. As indicated, (a) FAA issuance of "no hazard" determinations and City incorporation of any associated conditions set forth by the FAA, is required prior to City project approval, and (b) residential and commercial land uses are considered compatible (subject to standard mitigation) within the project's 60-65 dBA CNEL aircraft noise environment.

Pursuant to City and ALUC policy, the City will require an Avigation Easement as a conditions of project approval to provide for property owner acceptable of elevation restrictions and aircraft noise impacts. According to San Jose Airport staff, the project's proposed maximum height of 192 feet above ground would not impact any existing airline one-engine inoperative (OEI) emergency procedures over the project site.

Through required compliance with General Plan policies and FAA development restrictions, the proposed project will have a less than significant impact on airport operations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Other Land Use Issues

The proposed project will not conflict with any applicable habitat conservation plan or natural community conservation plan and will not divide an established community. **[Same Impact as Approved Project (No Impact)]**

4.10.3 Conclusion

Implementation of the proposed project will result in the same less than significant land use impacts previously identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.11 MINERAL RESOURCES

4.11.1 Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources.

4.11.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	1-5
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, Downtown Strategy 2000 FEIR, and the General Plan FEIR, the proposed project would result in less than significant mineral resources impacts, as described below.

4.11.2.1 Impacts to Mineral Resources

The proposed project is within a developed urban area and it does not contain any known or designated mineral resources. Implementation of the project will not result in the loss of availability of any known resources. **[Same Impact as Approved Project (No Impact)]**

4.11.3 Conclusion

Implementation of the proposed project will not result in impacts to known mineral resources, consistent with the findings of the Brandenburg FEIR, Downtown Strategy 2000 FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (No Impact)]**

4.12 NOISE

4.12.1 Existing Setting

4.12.1.1 Background Information

Noise is defined as unwanted sound. Sound levels are usually measured in decibels (dB) with 0 dB corresponding roughly to the threshold of hearing. Most of the sounds which we hear in the environment do not consist of a single frequency, but rather a broad band of frequencies, with each frequency differing in sound level. The intensities of each frequency add together to generate a sound. The method commonly used to quantify environmental sounds consists of evaluating all of the frequencies of a sound in accordance with a weighting that reflects the fact that human hearing is less sensitive at low frequencies and extreme high frequencies than in the frequency mid-range. This is called "A" weighting, and the decibel (db) level so measured is called the A-weighted sound level (dBA). In practice, the level of a sound is conveniently measured using a sound level meter that includes an electrical filter corresponding to the A-weighting curve.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01}, L_{10}, L_{50}, and L_{90}, are commonly used. They are the A-weighted noise levels equaled or exceeded during 1, 10, 50, and 90 percent of a stated time period. A single number descriptor called the L_{eq} is also widely used. The L_{eq} is the average A-weighted noise level during a stated period of time.

In determining the daily level of environmental noise, it is important to account for the difference in response of people to daytime and nighttime noises. During the nighttime, exterior background noises are generally lower than daytime levels. Most household noise also decreases at night and exterior noises become more noticeable. Further, most people sleep at night and are very sensitive to noise intrusion. To account for human sensitivity to nighttime noise levels, a descriptor, DNL (day/night average sound level), was developed. The DNL, or L_{dn} divides the 24-hour day into the daytime of 7:00 AM to 10:00 PM and the nighttime of 10:00 PM to 7:00 AM. The nighttime noise level is weighted to 10 dB higher than the daytime noise level. The Community Noise Equivalent Level (CNEL) is another 24-hour average which includes both an evening and nighttime weighting.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50

feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

4.12.1.2 Existing Noise Condition

Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways, primarily Highway 87, and aircraft flyovers. The noise environment for the entire Brandenburg site was quantified in the Brandenburg FEIR as 63 to 68 dBA. The highest average noise levels were at the northwest corner, where the current project site is located. The site was located within the 65 dBA CNEL noise contour for the airport with single-event noise levels ranging from 77 to 82 dBA.

There is a rail line approximately 150 feet north of the project site. The Brandenburg FEIR found that the rail activity was intermittent (approximately four trains per day) and would have an average Ldn of 44 to 49 dBA at 100 feet. There could, however, be occasional slow-moving freight trains that would result in single-event noise levels of 80 to 85 dBA at a distance of 100 feet.

Based on the City's most recent noise contour map for the Mineta San José International Airport, the project site is currently exposed to aircraft noise levels of 60-65 dBA CNEL. Based on the General Plan FEIR, the project site is within the existing and predicted 65-70 dBA noise contour for traffic noise.

4.12.1.3 Sensitive Receptors

The nearest existing noise sensitive receptors to the project site would be a residential complex located immediately south of Ryland Street, approximately 200 feet north of the project site. The other surrounding buildings are commercial and office and are not considered sensitive land uses.

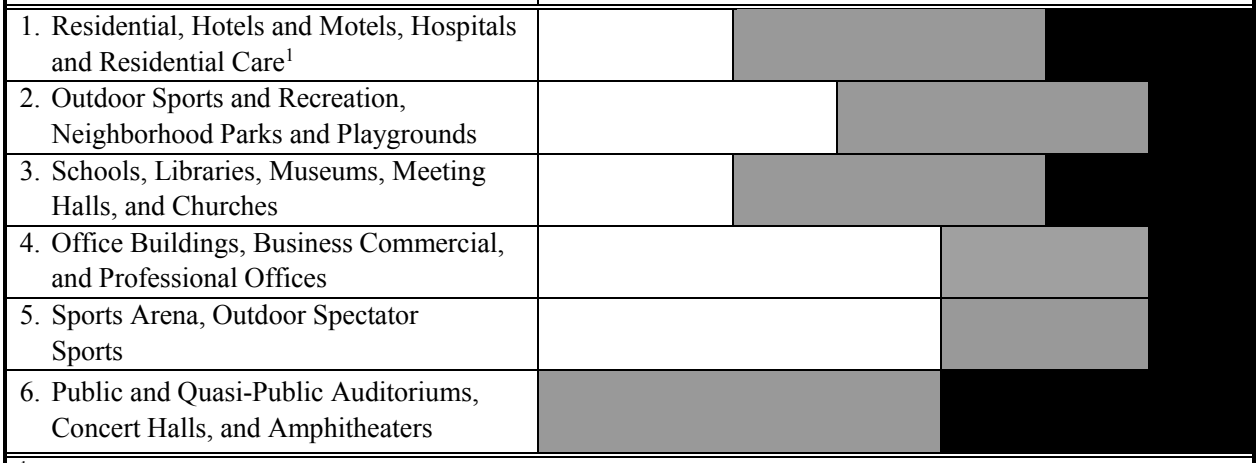
4.12.1.4 Applicable Noise Standards and Policies

General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The City's noise and land use compatibility guidelines are shown in Table 4.12-1, below.

TABLE 4.12-1
Proposed General Plan Land Use Compatibility Guidelines (GP Table EC-1)

Land Use Category	Exterior DNL Value in Decibels
	55 60 65 70 75 80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]	
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	
3. Schools, Libraries, Museums, Meeting Halls, and Churches	
4. Office Buildings, Business Commercial, and Professional Offices	
5. Sports Arena, Outdoor Spectator Sports	
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters	



[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use

noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Municipal Code – Construction Standards

According to San José Municipal Code, construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.12.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project result in:					
1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	1-5
2. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	1-5
3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	1-5
4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	1-5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project result in:					
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1-5
6. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1-5

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

City of San Jose Standards

The City of San Jose relies on the following guidelines for new development to avoid impacts above the CEQA thresholds of significance outlined above.

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Airport Noise

A significant noise impact would occur when noise sensitive land uses are proposed in areas where existing or future noise levels would exceed the noise and land use compatibility standards established by the Santa Clara County Airport Land Use Commission.

Traffic-Generated Noise

Development allowed by the *Envision San Jose 2040 General Plan* would result in increased traffic volumes along roadway throughout San Jose. The City of San Jose considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain "Normally Acceptable".

Construction Vibration

The City of San Jose relies on guidance developed by Caltrans to address vibration impacts from development projects in San Jose. A vibration limit of 12.7 mm/sec (0.5 inches/sec), PPV for buildings structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structure sounds but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

4.12.2.1 Noise Impacts to the Project

Interior Use Areas

In the future, ambient noise levels would be influenced primarily by transportation noise sources including automobile traffic and aircraft flyovers. Currently, noise levels around the project site range from 65 to 70 dBA. Based on estimated future traffic volumes associated with planned growth and redevelopment in the downtown area, traffic noise levels are anticipated to increase by zero to one dBA DNL. Although the ALUC's CLUP for San Jose International Airport shows the project site located within its projected 65 dB CNEL impact area, the City's more recent projections show the site exposed to future aircraft noise levels of less than 65 dB CNEL. Based on these estimates, the future noise levels on the project site (at ground level) are estimated to be 70 dBA.

Existing noise levels at the project site are above the "normally acceptable" limit of 60 dBA but within the "conditionally acceptable" range of up to 75 dBA for residential land uses. Future noise levels would also be above the "normally acceptable" limit of 60 dBA but within the "conditionally acceptable" range of 60 to 75 dBA.

Where exterior noise levels are below 65 dBA, interior noise levels of 45 dBA can be achieved with standard construction techniques. Up to 70 dBA, interior noise standards can be met with standard construction techniques and the inclusion of a forced air mechanical ventilation system.

Consistent with the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and in accordance with the General Plan FEIR, particularly Policy EC-1.1, the proposed project will be required by conditions of project approval to implement the following measures.

Conditions of Project Approval

- A qualified acoustical consultant will review final site plans, building elevations, and floor plans prior to construction to calculate expected interior noise levels as required by City policies and State noise regulations. Project-specific acoustical analyses are required by the California Building Code to confirm that the design results in interior noise levels of 45 dBA or lower. The specific determination of what noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking, protected ventilation openings, etc.) are necessary will be conducted on a unit by unit basis. Results of the analysis, including the description of the necessary noise control treatment, will be submitted to the City along with the building plans and approved prior to issuance of any building permits.

Because the project will be required to comply the Conditions of Project Approval, implementation of the proposed project will have a less than significant impact on future site residents relative to interior building noise. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Outdoor Use Areas

As proposed, the project would have a pool deck and common open space area on the roof of the parking structure. Some of the residential units would also have balconies. Pursuant to General Plan policy EC-1.1 private balconies in multi-family buildings are excluded from the City's noise standards and will not be discussed further.

As noted above, the common exterior use areas on the project site would be exposed to noise levels in excess of 60 dBA DNL. Noise on the project site is due, in part, to aircraft flyovers and the adjacent elevated freeway. Mitigation measure NOI-1b in the Brandenburg FEIR stated that "Outdoor activity areas (e.g., patios, balconies, common recreation areas) shall be located on the east side of the building so that the structure would provide noise shielding from aircraft-related noise impacts**."** Nevertheless, General Plan policy EC-1.1, which supersedes the Brandenburg FEIR, only requires noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Consistent with the Downtown Strategy 2000 FEIR and in accordance with the General Plan FEIR, particularly Policy EC-1.1, the proposed project will be required by conditions of project approval to implement the following measure:

Conditions of Project Approval

- Shield common outdoor areas with buildings and parapet walls or other noise attenuation features/structures.

Because the project will be required to comply the Conditions of Project Approval, implementation of the proposed project will have a less than significant impact on future site residents relative to exterior common use areas. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.12.2.2 Noise Impacts from the Project

Project Generated Traffic Noise Impacts

Based on estimated future traffic volumes associated with planned growth and redevelopment in the downtown area, traffic noise levels are anticipated to increase by zero to one dBA DNL. The proposed project is consistent with the planned growth in the downtown area and would not increase traffic noise above that already anticipated. Typically, in high noise environments, if the project would cause ambient noise levels to increase by more than three dBA at noise-sensitive receptors, the impact is considered significant. Since the proposed project will not cause an increase in noise levels in the project area of three decibels or more, it will have a less than significant long-term noise impact on the nearby residential land uses. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Noise Impacts

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during demolition and the construction of project infrastructure when heavy equipment is used. Typical average construction generated noise levels are about 81 – 89 dB measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.) Construction generated noise levels drop off at a rate of about six dB per doubling of distance between the source and receptor.

The construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site and would be audible at the nearby residential buildings and could pose a significant impact. The General Plan FEIR concluded that short-term construction noise would be mitigated by identified General Plan policies.

Consistent with the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, the Municipal Code, and in accordance with the General Plan FEIR, particularly Policy EC-1.7, the proposed project will be required by conditions of project approval to implement the following measures during all phases of construction on the project site:

- Demolition and construction activities on- or off-site, within 500 feet of sensitive receptors, such as residential development, shall be restricted to the hours of 7 AM to 7 PM Monday through Friday, non-holidays only.
- Staging areas and construction material areas shall be located as far away as possible from adjacent land uses.
- All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.
- All unnecessary idling of internal combustion engines is prohibited.
- All stationary, noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences and businesses.

- The Director of Planning and residential neighborhoods proximately located to the project site shall be notified in writing by the developer of the construction schedule at least seven days prior to the start of construction.
- A noise disturbance coordinator shall be designated who is responsible for responding to complaints about construction noise. The telephone number of the disturbance coordinator shall be posted in a conspicuous place at the construction site and shall also be included in the notice sent to neighbors and the Director of Planning regarding the schedule.
- In the event that pile driving is proposed, nearby residents will be notified of the schedule for its use while it is in use. Portable acoustical barriers will be installed around pile driving equipment.

[Same Impact as Approved Project (Less Than Significant Impact)]

Construction Vibration Impacts

Pile driving would generate the highest ground borne vibration levels (approximately 0.644 in/sec PPV at 25 feet), but will be avoided by pre-drilling the piles. Other construction activities such as drilling, use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) may also generate substantial vibration in the immediate site vicinity. Construction of the main building structure is not anticipated to be a source of substantial vibration and construction vibration would not be persistent for the majority of the construction schedule.

The nearest building to the project site is the small industrial building approximately 75 feet northeast of the site. Construction activities other than pile driving would not exceed the 0.20 in/sec PPV criteria established by the City at a distance of 50 feet. Because the piles will be drilled and all other equipment would not exceed the City's threshold for potential cosmetic damage to buildings of normal conventional construction, the project would have a less than significant vibration impact on adjacent structures. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.12.3 Conclusion

Implementation of the proposed project conditions and conformance with General Plan policies will reduce noise impacts to existing sensitive land uses and future residents and reduce temporary construction noise and vibration impacts associated with the proposed project to a less than significant level, consistent with the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.13 POPULATION AND HOUSING

4.13.1 Setting

According to California Department of Finance 2010 census data estimates for 2012, San José has a population of 957,405 persons. As of 2012 the City of San José has approximately 305,711 households with an average of 3.13 persons per household and 1.55 employed residents per household.[24] According to the City's General Plan, the projected population in 2035 will be 1.3 million persons occupying 429,350 households.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

4.13.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	1-5
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1-5
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant population and housing impacts, as described below.

[24] State of California Department of Finance. *Census 2010.* 2010. http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&prodType=table Accessed August 2, 2012.

4.13.2.1 Impacts from the Project

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The project proposes an 18-story residential building containing up to 313 residential units. Assuming 3.09 persons per household for each of the 313 residential units, the project will generate a maximum of 967 new residents in the City of San José.

The previously approved Downtown Strategy 2000 allows up to 10,000 dwelling units to be built within the downtown area of San José. The proposed 313 dwelling units will comprise a small portion of the 10,000 dwelling units of residential capacity planned for the downtown area as well as the 120,000 net new dwelling units Citywide planned for in the General Plan. While the project will increase housing within the City, it will not result in unplanned residential growth and will not have a significant impact on the jobs/housing imbalance. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project site is currently vacant. The project will not displace people or necessitate the construction of housing elsewhere. **[Same Impact as Approved Project (No Impact)]**

4.13.3 Conclusion

Implementation of the proposed project would have the same less than significant impact on population and housing as previously identified in the Downtown Strategy 2000 FEIR and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the City. The nearest station to the project site is Station No. 1, located at 225 North Market Street, approximately 565 feet southeast of the project site.

For fire protection services, *Policy ES-3.1(2)* of the Envision 2040 General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. The project site is located approximately 0.14 miles from Station No. 1.

4.14.1.2 Police Protection Service

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately one mile northwest of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division, which includes five patrol officers and two crime prevention specialists. In 2013, the City had 25,510 reported property crimes, 3,215 reported violent crimes, and 16 reported hate crimes.[25]

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

4.14.1.3 Schools

The project site is located within the San José Unified School District (SJUSD). The project area is served by the schools listed in Table 4.14-1.

TABLE 4.14-1
Local Schools

School[26]	Location	Distance from Site
Grant Elementary School	470 East Jackson Street San Jose, CA	0.89 miles NE
Burnett Middle School	850 North 2nd Street San Jose, CA	0.84 miles N
Lincoln High School	555 Dana Avenue San Jose, CA	1.54 mile SW

[25] City of San José Police Department. *Official Crime Statistics*. January to December 2013. <http://www.sjpd.org/CrimeStats/crimestats.html> Accessed March 13, 2015.
[26] San José Unified School District. <http://www.schfinder.com/sjusd> Accessed March 13, 2015.

4.14.1.4 Parks

The City of San José provides and maintains developed parkland and open space to serve its residents. The City currently operates 184 neighborhood parks (including skate parks) nine regional parks, and over 55 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services (PRNS) is responsible for development, operation, and maintenance of all City park facilities.

Five parks and trails are within a $^1/_3$ mile of the project site and are listed in Table 4.14-2.

TABLE 4.14-2
Local Parks

Parks	Location	Distance from Site
Pellier Park	Terraine Street and St. James Street	0.1 miles SE
Ryland Park	San Pedro Street and First Street	0.13 miles NE
Guadalupe River Park and Trails	Along the Guadalupe River	0.21 miles W
St James Park	St. John Street and First Street	0.26 miles SE
Arena Green	Between Santa Clara Street and Julian Street, along Autumn Street	0.32 miles SW

4.14.1.5 Libraries and Community Centers

The San José Public Library System consists of one main library and 22 branch libraries. Residents of the downtown core area are served by the Dr. Martin Luther King Jr. Main Library, which is approximately 0.67 miles southeast of the project site. The Dr. Martin Luther King Jr. Main Library holds 1.5 million volumes and is over 475,000 square feet in size.

The City currently operates 13 community centers. Similar to City park facilities, PRNS is responsible for development, operation, and maintenance of all City-owned community centers. The nearest public community center, Grace Community Center, is approximately 0.98 miles east of the project site. The community center provides fitness, nutrition, arts and crafts, dance, writing, and other programs and summer camps.

4.14.1.6 Applicable Plans, Policies, and Regulations

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO.

Envision San José 2040 General Plan

The Envision 2040 General Plan includes policies applicable to all development projects in San José. The policies listed below are relevant for the public services considerations of the proposed project.

Policy ES-3.1: Provide rapid and timely Level of Service response time to all emergencies:

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-visible and accessible spaces.

Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-1.12: Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Policy PR-2.6: Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

4.14.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
Fire Protection?	☐	☐	☐	☒	1-5
Police Protection?	☐	☐	☐	☒	1-5
Schools?	☐	☐	☐	☒	1-5
Parks?	☐	☐	☐	☒	1-5
Other Public Facilities?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR, the proposed project would result in less than significant public services impacts, as described below.

4.14.2.1 Impacts to Public Services

Fire Protection Services

The General Plan FEIR concluded that planned growth under the Envision 2040 General Plan would increase calls for fire protection services in the City. The higher density development envisioned in the General Plan may require additional staffing and equipment to adequately serve the larger population but no new stations would be required other than those already planned. The Downtown Strategy 2000 FEIR concluded that while the growth proposed in the downtown area of San José would result in an increase in demand for fire services, the increased population would not result in demand for services beyond the capabilities of the department.

The proposed increase in development on the project site is accounted for in the planned growth for the City. The project is, however, only a small fraction of the total growth identified in the General Plan and the Downtown Strategy 2000. The proposed project, by itself, would not preclude the SJFD from meeting its service goals. As a result, the proposed project could be adequately served by existing resources. No additional fire personnel or equipment would be required.

Furthermore, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan FEIR to avoid unsafe building conditions and promote public safety. As a result, the proposed residential development will not require new fire stations to be constructed or existing fire

stations to be expanded to serve the development while maintaining City service goals. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

Police Protection Services

The General Plan FEIR concluded that planned growth under the General Plan would increase the population of the City and result in an increase in calls for police services such that new police facilities might be required. The FEIR stated that while supplemental environmental review would be necessary at the time of development, construction of new police facilities would not be anticipated to have significant adverse environmental impacts.

The proposed increase in development on the project site is accounted for in the planned growth for the City. The project is, however, only a small fraction of the total growth identified in the Envision 2040 General Plan and the Downtown Strategy 2000. The proposed project, by itself, would not preclude the SJPD from meeting its service goals. As a result, all future development proposed on-site could be adequately served by existing resources. No additional police personnel or equipment or expanded facilities would be required.

Furthermore, the proposed project would be constructed in accordance with current building codes and would be maintained in accordance with applicable City policies such as General Plan *Policy ES-3.9* that promote public and property safety. The proposed development would not require the construction of new police stations or the expansion of existing police stations in order to serve the development while also maintaining City service goals. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

Schools

It is estimated that build-out of the Envision 2040 General Plan will generate approximately 11,079 new students in the SJUSD. The Downtown Strategy 2000 estimated a maximum of 5,000 new K-12 students. The General Plan identified the need for seven elementary schools, two middle schools, and two high schools to be constructed within the San Jose Unified district to meet the demand of the full build out of the General Plan. The SJUSD has closed and/or leased sites that may be able to aid in accommodating students generated by the planned growth. The capacity of the closed/leased schools is unknown and was not accounted for in the General Plan analysis. It should be noted that while the district overall is over capacity, individual schools that would serve the project site are not, as shown in Table 4.14-3 below.

TABLE 4.14-3 Local School Facilities[27]		
Local School	**Capacity**	**Current Enrollment (2014-2015)**
Grant Elementary School	990	593 students
Burnett Middle School	963	872 students
Lincoln High School	1850	1816 students

The project proposes development of 313 residential units. Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.203 K-12 students per unit.[28] Based on this statistic, the proposed 313 residential units could generate up to 64 new students.

The project is part of the planned growth in the City and will not increase students in the SJUSD beyond what was anticipated in the Envision 2040 General Plan and Downtown Strategy 2000. The addition of 64 students between the three schools will not cause any of the schools to exceed their current capacity or require the construction of new facilities to support the students. Lastly, the project will be required to pay school impact fees pursuant to Government Code Section 65996 as outlined below.

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to the issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with state law. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would partially offset project-related increases in student enrollment. While the proposed project would increase the number of school children attending public schools in the project area, it would be consistent with the increases identified in the Envision 2040 General Plan and Downtown Strategy 2000, and would mitigate its impact through compliance with State law regarding school impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Parks

Implementation of the Downtown Strategy 2000 creates the potential for up to 10,000 additional dwelling units in the downtown area, which would result in a 87.5-acre deficiency of parkland under the City's PDO. The Downtown Strategy 2000 FEIR concluded that the City's PDO would be satisfied through a combination of several means including: dedication of land; payment of fees

[27] Jill Case. Director of Student Operational Services. San José Unified School District. Personal Communication. February 23, 2015.

[28] San José Unified School District. *Development Fee Justification Study.* April 2012. <http://www.sjusd.org/pdf/districtinformation/Development_Fee_Justification_Study.pdf> Accessed September 24, 2013.

(based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities.

The General Plan EIR concluded that construction and/or expansion of parks throughout the City in compliance with General Plan policies and regulations will reduce any physical impacts from development or expansion of parkland facilities to a less than significant level. Because the 313 dwelling units proposed under this project have been accounted for in the Downtown Strategy 2000 and the project will comply with the PDO requirements, the proposed project will not adversely impact park facilities in San José. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Libraries

The Dr. Martin Luther King Jr. Library opened in 2003 and provides more floor space and books per capita to serve the downtown population of San José than the City's service goals require. In addition, there are 22 branch libraries located throughout San José. Development approved under the City's General Plan will increase the City's residential population to 1,313,811. The existing and planned library facilities in the City will provide approximately 0.68 square feet of library space per capita for the anticipated population under the proposed General Plan by the year 2035 which is above the City's service goal.

The General Plan EIR concluded that development and redevelopment allowed under the General Plan would be adequately served by existing and planned library facilities. The increased residents at the project site were analyzed as part of the City's General Plan and as part of the Downtown Strategy 2000 and, as part of the planned residential growth in the City, will not result in significant impacts to San José library facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3 Conclusion

The project would have the same less than significant impact on public services in San José as previously identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15 RECREATION

4.15.1 Setting

The City of San José currently operates 180 neighborhood parks (including skate parks), 25 community centers, nine regional parks, and over 54 miles of trails. Amenities within the neighborhood parks can include basketball courts, exercise (par) courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts. Planning, acquisition, and development of parks and recreational facilities in San José are the responsibility of the Parks, Recreation and Neighborhood Services Office.

The City's goal is to provide 3.5 acres of neighborhood/community serving parkland per 1,000 population, 7.5 acres of citywide/regional park and open space lands per 1,000 population, and 500 square feet of community center facilities per 1,000 population.

4.15.1.6 Applicable Recreation Regulations and Policies

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-1.9: As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as a part of new development projects; privately or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.

Policy PR-1.12: Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate,, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Policy PR-2.6: Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

4.15.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☐	☒	1-5
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant recreational impacts, as described below.

4.15.2.1 Impacts to Recreational Facilities

Implementation of the Downtown Strategy 2000, which accounted for up to 10,000 new dwelling units, would require an additional 87.5 acres of parkland be constructed to serve the increased downtown population. The 313 dwelling units proposed for this project were accounted for in the Downtown Strategy 2000 and the Downtown Strategy 2000 FEIR concluded that the City's PDO would be satisfied through a combination of several means including: dedication of land; payment of a fee (based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities. While the increased population will result in increased use of existing and planned parks, trails, and community centers within the City, these facilities would be maintained and expanded through application of PDO/PIO fees in accordance with General Plan policies. The additional 10,000 residential units which are allowed through the Downtown Strategy Plan (of which the project is a part), would not result in substantial physical deterioration of these facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15.3 Conclusion

The project will result in the same less than significant impact on recreation facilities in the City of San José as previously identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16 TRANSPORTATION

4.16.1 Setting

The City certified the Downtown Strategy 2000 FEIR in June 2005 which included a comprehensive traffic analysis that identified existing conditions, including conditions anticipated to occur with the implementation of specifically identified roadway improvements already planned and approved for the area including improvements identified in the Brandenburg FEIR. There have not been any substantial modifications to the area transportation facilities since certification of the Downtown Strategy 2000 FEIR.

The project site is bordered by four roadways, Terraine Street, Bassett Street, Old West Julian Street, and Highway 87. In the vicinity of the project site, all three roadways are two lane roads with limited access. Terraine Street spans two city blocks from Devine Street to Bassett Street. Bassett Street runs from North Second Street to its terminus just west of Highway 87. Old West Julian Street runs approximately three city blocks from Market Street to its terminus at Highway 87, immediately south of the project site. Highway 87 is a five lane (four through lanes and an on-ramp) elevated roadway where is runs adjacent to the site.

4.16.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒	1-5
2. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒	1-5
3. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	1-5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
4. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐	1-5
5. Result in inadequate emergency access?	☐	☐	☒	☐	1-5
6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☒	☐	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant transportation impacts, as described below.

4.16.2.1 Roadway Impacts

The proposed 313 dwelling units are part of the approved Brandenburg development and are included in the 10,000 dwelling units included in the Downtown Strategy 2000. The Downtown Strategy 2000 FEIR concluded that local and regional traffic impacts of all the assumed downtown development, including 10,000 dwelling units, would have an impact on 36 intersections and 48 directional freeway segments. Roadway improvements within the Plan area were identified in the Downtown Strategy 2000 FEIR, including reconfiguration of the roadway network in the vicinity of the proposed project site. The proposed project would not preclude implementation of the roadway improvements.

As noted in the San José 2040 General Plan FEIR, development within the Downtown Core Area Boundary is exempt from the Level of Service performance criteria and exempt from traffic mitigation requirements. The proposed project is part of the planned growth in the downtown area and will not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2000 FEIR. **[Same Impact as Approved Project (Significant Impact)]**

4.16.2.2 Other Transportation Impacts

The proposed project will conform to the policies of the General Plan and will not conflict with adopted plans, policies, or programs related to alternative transportation. The project will not increase hazards on or around the site and will have adequate emergency access. The project is not expected to cause a change in air traffic patterns (see Section 4.8, *Hazards and Hazardous Materials,* regarding required project compliance with FAA regulations and City aviation policies). **[Same Impact as Approved Project (No Impact)]**

4.16.3 Conclusion

Implementation of the project will result in the same significant impacts to the transportation system as was previously identified in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and the General Plan FEIR. **[Same Impact as Approved Project (Significant Impact)]**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

4.17.1.1 Water Services

The project site is currently a vacant lot and does not generate any demand for water. Currently, there are no recycled water lines in the project area. The nearest recycled water line is on Autumn Street, approximately 0.3 miles northwest of the project site.[29]

4.17.1.2 Wastewater

Sanitary sewer lines in the area are owned and maintained by the City of San José. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). As the project site does not currently have any water use, there is no wastewater generated on-site.

Based on the General Plan FEIR, the City's average dry weather flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José Santa Clara Regional Wastewater Facility (Facility) is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

4.17.1.3 Storm Drainage

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River. Guadalupe River flows north, carrying the effluent from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site six percent covered in impervious surfaces**.** There are existing storm drain lines in Terraine Street currently serving the project site that would also serve the proposed development.

4.17.1.4 Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. In 2008, the City of San José diverted approximately 60 percent of the waste generated in the City. According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

[29] South Bay Water Recycling. *Recycled Water Pipeline System.* Map. July 28, 2011.

The project site is vacant and does not currently generate any solid waste.

4.17.1.5 Applicable Utilities and Service Systems Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

Action EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

4.17.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	1-5
2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	1-5
3. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	1-5
4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	1-5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Checklist Source(s)
Would the project:					
5. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	1-5
6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	1-5
7. Comply with federal, state and local statutes and regulations related to solid waste?	☐	☐	☐	☒	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant utilities and service systems impacts, as described below.

4.17.2.1 Water Supply

Currently, the project site does not use any water. Based on data provided by the project applicant, the proposed project would use approximately 47,341 gpd of water for landscaping and interior uses.[30]

The General Plan FEIR determined that the three water suppliers for the City could serve planned growth under the General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply under standard conditions and drought conditions.

The proposed project is accounted for in the Brandenburg FEIR and the Downtown Strategy 2000 FEIR and is consistent with planned growth in the General Plan. It will also comply with the policies and regulations identified in the General Plan FEIR. Therefore, implementation of the proposed project would have a less than significant impact on the City's water supply. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

[30] Joshua Burroughs, Senior Development Manager, Barry Swenson Builder. Email correspondent. January 21, 2015. Water calculations are based on an estimated indoor water use of 121 gallons per unit per day. The assumption is that 80 percent of water use would be generated by indoor water use.

4.17.2.2 Sanitary Sewer Capacity

The project site does not currently generate wastewater. The proposed project would generate approximately 37,873 gpd of wastewater.[31]

As stated above, the City currently has approximately 38.8 mgd of excess treatment capacity at the Facility. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. As a result, development allowed under the General Plan would not exceed the City's allocated capacity at the Facility. The proposed project is consistent with the development assumptions in the General Plan. Therefore, implementation of the proposed project would have a less than significant impact on the Facility. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

4.17.2.3 Storm Drainage System

Under existing conditions, the project site is assumed to have six percent impervious surface coverage, approximately 4,054 square feet. Under project conditions, the project site would be covered with approximately 51,810 square feet (78 percent) of impervious surfaces. Implementation of the project would result in a 72 percent increase in impervious surfaces at the project site which will result in a net increase in stormwater runoff.

The Downtown Strategy 2000 FEIR concluded that with the proposed changes in land use, full build-out of the Downtown Strategy 2000 plan would result in an overall net decrease in impermeable surfaces. Therefore, even though the proposed project would result in an increase in stormwater runoff, the existing storm drainage system would have sufficient capacity to support the development proposed under the Downtown Strategy 2000 FEIR, including the proposed project. In addition, the project will be required to comply with the NPDES Municipal Regional Permit and all applicable plans, policies, and regulations (including RWQCB permits) for the treatment of stormwater. For all these reasons, implementation of the proposed project will have a less than significant impact on the City's storm drainage system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.4 Solid Waste

The proposed project would generate approximately 1,662 pounds per day of solid waste.[32] The General Plan FEIR concluded that the increase in waste generated by full build out under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from developments allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. This plan, in combination with existing regulations and programs, would ensure that full build out of the General

[31] Joshua Burroughs, Senior Development Manager, Barry Swenson Builder. Email correspondent. January 21, 2015. Water calculations are based on an estimated indoor water use of 121 gallons per unit per day. The assumption is that 80 percent of water use would be generated by indoor water use.

[32] Cal Recycle Web Site. <http://www.calrecycle.ca.gov/wastechar/WasteGenRates/Residential.htm> Accessed March 16, 2015. Based on the generation rate of 5.31 pounds per unit per day for multi-family units.

Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

The proposed project is consistent with the development assumptions in the General Plan. The General Plan FEIR determined that implementation of the proposed project would have a less than significant impact on the solid waste disposal capacity. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

4.17.3 Conclusion

Implementation of the proposed project will have the same less than significant utilities and service system impacts as previously identified in the Downtown Strategy 2000 FEIR and the General Plan FEIR and will not require new utility lines or facilities and would not exceed the capacity of existing utility and service systems. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same as Approved Project	Checklist Source(s)
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	1-10
2. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒	1-10
3. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☐	☒	1-10
4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	1-10

4.18.1 Findings

The project would result in temporary air quality, water quality, and noise impacts during construction. With the implementation of the identified standard permit conditions, the identified construction impacts would be mitigated to less than significant. Because the nature of the identified impacts are temporary and will be mitigated, the proposed project would not have a cumulatively considerable impact on air quality, water quality, or noise in the project area.

The proposed project would not have a project level impact from individual TAC emission sources. Based on refined modeling of State Route 87 and the UPRR, along with screening data provided by BAAMQD for the nearby local traffic and stationary sources, the project would be exposed to a combined cumulative excess cancer risk of 12.4 per million, $PM_{2.5}$ exposure of less than 0.07$\mu g/m^3$, and an HI well below 10.0.

As shown in Table 4.18-1, these exposures do not exceed the cumulative source thresholds of significance identified by BAAQMD.

TABLE 4.18-1 Community Risk Impacts from Single and Cumulative TAC Emission Sources			
Source	**Maximum Cancer Risk (per million)**	**Maximum Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)**	**Maximum Hazard Index**
Local Roadways	3.5	0.13	<0.03
Stationary Sources	0.9	0.00	0.00
State Route 87 traffic	6.2	0.22	<0.01
UP Railroad	1.8	0.01	<0.01
Maximum Single Source	6.2	0.22	0.03
BAAQMD Threshold - Single Source	***10.0***	***0.3***	***0.05***
Cumulative Sources	12.4	0.36	<0.07
BAAQMD Threshold – Cumulative Sources	***100***	***0.8***	***10.0***
Significant	***No***	***No***	***No***

Subsurface testing in the project vicinity has found no historic or prehistoric resources. The project site is, however, assumed to have a high potential for subsurface cultural resources due to known prehistoric and historic occupation of the project area and proximity to Guadalupe River. Because the identified cultural resource impacts from implementation of the project will be mitigated, the proposed project would not have a cumulatively considerable impact on cultural resources in the project area.

The proposed project would have a less than significant GHG emissions impact and would not preclude the City or State from meeting emission reduction limits by the horizon year 2020. The project could expose future site residents to TAC emissions above established thresholds, but the impact will be fully mitigated and would not be cumulatively considerable.

Based on soil samples, the site has soil and groundwater contamination related to pervious land uses located on-site. In addition, the buildings previously located on-site likely contained asbestos and/or lead based paint. Residual contamination from AMCs and lead based paint are likely to be found on-site. The identified hazardous materials impacts will be mitigated and would not result in a cumulatively considerable impact.

The proposed project is consistent with the General Plan and zoning designations for the site and would be consistent with all applicable City land use regulations.

As discussed in the respective sections, the proposed project would have no impact or a less than significant impact on agriculture and forest resources, biological resources, geology and soils, mineral resources, population and housing, public services, recreation, and utility and service facilities. The project is consistent with the General Plan and, therefore, the cumulative impacts to utilities, public services, and population and housing have been addressed in the General Plan Environmental Impact Report and accounted for in the City's long-term infrastructure service planning.

The project would contribute to the significant cumulative transportation impact that will occur with full build-out of the Downtown Strategy 2000 plan and the General Plan. The project will not result in any new transportation impacts or impacts of greater severity then the approved projects. Mitigation measures were adopted where feasible and statements of overriding considerations have been adopted for both plans.

There are no recently approved or reasonably foreseeable projects that, when combined with the proposed project, would result in a cumulatively considerable impact not previously identified by the Downtown Strategy 2000 FEIR or the General Plan FEIR.

4.18.2 Conclusion

Implementation of the proposed project would not result in any significant unavoidable impacts, impacts that are cumulatively considerable, or directly or indirectly cause substantial adverse effects on human beings. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

SECTION 5.0 CHECKLIST SOURCES

1. CEQA Guidelines - Environmental Thresholds (Professional judgment and expertise and review of project plans).
2. City of San José, General Plan and Zoning Ordinance.
3. Brandenburg Mixed Use Project/North San Pedro Housing Sites FEIR
4. City of San José, Downtown Strategy 2000 FEIR
5. City of San Jose, Envision 2040 General Plan FEIR
6. California Department of Conservation. S*anta Clara County Important Farmland 2010.* 2011.
7. Bay Area Air Quality Management District (BAAQMD). *Air Quality Guidelines.* June 2011.
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9. Phase I Environmental Site Assessment – Cornerstone Earth Group
10. Federal Emergency Management Agency, Flood Insurance Rate Map, Community Panel #06085C0234H. 2009.

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Persons Consulted

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